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PROBLEM ISSUES OF IMPLEMENTATION OF STATE POLICY IN THE FIELD OF STATE SECURITY

Abstract. The problems of reforming the domestic special service as a responsible subject of state security of Ukraine are considered. Actual issues of the implementation of state security have been identified in order to find optimal directions that will increase the effectiveness of the public administration system in the field of state security. The strategic goal and objectives of the special service reform as the most important component of the security and defense sector of Ukraine are argued. The development perspectives of the domestic special services are detailed, taking into account the achievements of positive experience and the best practices of the leading EU states. Underscore is placed on the need for a functional modernization of state security, especially in the context of the Kremlin's aggressive policy. Underscore is placed on the need for a functional modernization of state

security, especially in the context of the Kremlin's aggressive policy. Particular attention is paid to the issues of preventing duplication of law enforcement functions among themselves as a result of the reform of the security bloc. The key priorities of the state security policy are summarized and directions for the improvement of its concepts on their basis are formed. The measures have been identified, the practical implementation of which will allow forming a positive image of the domestic special service both as a subject of state security in Ukrainian society, and on the part of the European community. Strategic objectives of reforming the Security Service of Ukraine as a state special-purpose body with law enforcement functions that ensures state security are regulated. It was summarized that the state security policy should include a set of basic measures aimed at creating effective, dynamic and flexible in management, competent bodies provided with modern material and technical means of counter-intelligence agencies of the European level, bringing the tasks, functions and directions of their activities in accordance with modern needs of the national interests, the protection of the rights and freedoms of the person and citizen, society and the state from external and internal threats, the formation of confidence in the activities of the domestic special services in the context of public-private collaboration, assisting civil institutions in this process.

Keywords: state policy, national security, state security, law enforcement reform, law enforcement activities, domestic intelligence, security and defense sector, law enforcement function, NATO, threats to state security.

ПРОБЛЕМНІ ПИТАННЯ РЕАЛІЗАЦІЇ ДЕРЖАВНОЇ ПОЛІТИКИ У СФЕРІ ЗАБЕЗПЕЧЕННЯ ДЕРЖАВНОЇ БЕЗПЕКИ

Анотація. Розглянуто проблеми реформування вітчизняної спецслужби як відповідального суб'єкта забезпечення державної безпеки України. Визначено актуальні питання реалізації державної безпекової політики з метою пошуку оптимальних шляхів підвищення ефективності системи державного управління у сфері державної безпеки. Аргументовано стратегічну мету та завдання реформування спецслужби як важливої складової сектору безпеки і оборони України. Деталізовано перспективи розбудови вітчизняної спецслужби з урахуванням надбань позитивного досвіду і кращих практик провідних держав ЄС. Аргументовано необхідність функціональної модернізації забезпечення державної безпеки, особливо в умовах агресивної політики Кремля. Особливої уваги надано питанням недопущення дублювання функцій правоохоронних органів між собою за результатами реформування силового блоку. Узагальнено ключові пріоритети державної політики безпеки та на їх основі сформульовано шляхи удосконалення її концептів. Визначено заходи, практична реалізація яких дасть можливість сформувати позитивний імідж вітчизняної спецслужби як суб'єкта забезпечення державної безпеки в українському соціумі так і з боку європейської спільноти. Регламентовано стратегічні завдання реформування Служби безпеки України як державного органу спеціального призначення з правоохоронними функціями, що забезпечує державну безпеку. Підсумовано, що державна безпекова політика

має містити комплекс основних заходів, спрямованих на створення ефективних, динамічних та гнучких в управлінні, фахових, забезпечених сучасними матеріальними і технічними засобами органів та підрозділів контррозвідки європейського рівня, приведення завдань, функцій і напрямів їх діяльності відповідно до сучасних потреб забезпечення національних інтересів, захисту прав людини і громадянина, суспільства і держави від зовнішніх та внутрішніх загроз; формування простору довіри до діяльності вітчизняної спецслужби у контексті державно-приватного партнерства, сприяння громадянських інституцій цьому процесу.

Ключові слова: державна політика, національна безпека, державна безпека, реформування правоохоронних органів, правоохоронна діяльність, вітчизняна спецслужба, сектор безпеки і оборони, правоохоронна функція, НАТО, загрози державній безпеці.

ПРОБЛЕМНЫЕ ВОПРОСЫ РЕАЛИЗАЦИИ ГОСУДАРСТВЕННОЙ ПОЛИТИКИ В СФЕРЕ ОБЕСПЕЧЕНИЯ ГОСУДАРСТВЕННОЙ БЕЗОПАСНОСТИ

Аннотация. Рассмотрены проблемы реформирования отечественной спецслужбы как ответственного субъекта обеспечения государственной безопасности Украины. Определены актуальные вопросы реализации государственной безопасности с целью поиска оптимальных направлений повышения эффективности системы государственного управления в сфере государственной безопасности. Аргументировано стратегическую цель и задачи реформирования спецслужбы как важнейшей составляющей сектора безопасности и обороны Украины. Детализированы перспективы развития отечественной спецслужбы с учетом достижений положительного опыта и лучших практик ведущих государств ЕС. Аргументирована необходимость функциональной модернизации обеспечения государственной безопасности, особенно в условиях агрессивной политики Кремля. Особое внимание уделено вопросам недопущения дублирования функций правоохранительных органов между собой по результатам реформирования силового блока. Обобщены ключевые приоритеты государственной политики безопасности и на их основе сформированы направления усовершенствования ее концептов. Определены мероприятия, практическая реализация которых позволит сформировать позитивный имидж отечественной спецслужбы как субъекта обеспечения государственной безопасности в украинском социуме, так и со стороны европейского сообщества. Регламентированы стратегические задачи реформирования Службы безопасности Украины как государственного органа специального назначения с правоохранительными функциями, который обеспечивает государственную безопасность. Подытожено, что государственная политика безопасности должна включать комплекс основных мероприятий, направленных на создание эффективных, динамических и гибких в управлении, компетентных, обеспеченных современными материальными и техническими средствами органов и подразделений контрраз-

ведки европейского уровня, приведение задач, функций и направлений их деятельности в соответствии с современными нуждами обеспечения национальных интересов, защиты прав и свобод человека и гражданина, общества и государства от внешних и внутренних угроз, формирование простора доверия к деятельности отечественной спецслужбы в контексте государственно-частного партнерства, содействия гражданских институций этому процессу.

Ключевые слова: государственная политика, национальная безопасность, государственная безопасность, реформирование правоохранительных органов, правоохранительная деятельность, отечественная спецслужба, сектор безопасности и обороны, правоохранительная функция, НАТО, угрозы государственной безопасности.

Problem statement. Since 2014, Ukraine continues the process of reforming the law enforcement agencies. Such a process involves, above all, the formation of an effective system of institutional support in the fight against organized crime, which is accompanied by the creation of new law enforcement institutions, which, according to their competence and within the framework of functionality, have systematically taken measures to combat organized crime and corruption. Taking into account the current realities of the formation of new law enforcement institutions and systemic changes in the activities of existing law enforcement agencies, an important focus remains the distinction and specification of the functions of state bodies engaged in the fight against organized crime as an important component of ensuring the state security of Ukraine.

Modern changes in the socio-economic and political-legal conditions of functioning of law-enforcement system, the course towards European integration require not only the reform of the law-enforcement sphere, but also an increase in the effectiveness of law-en-

forcement agencies, since they are entrusted with the important tasks of fighting organized crime. Reforms that have been initiated recently in the law enforcement sphere and which are being put into practice, provide for improving the efficiency of the law enforcement system, and should also contribute to increasing public confidence in such bodies, affirming justice, legality, serve as additional guarantees for ensuring the rights of citizens.

Currently, there is a large-scale reform of law enforcement agencies, which is accompanied by the development of legal acts and institutional measures. According to the provisions of the Concept for the Development of the Security and Defense Sector of Ukraine, approved by Decree of the President of Ukraine as of March 14, 2016 № 92 [1], the main efforts to develop the security and defense sectors should focus on the step-by-step and coordinated enhancement of the operational capabilities of the security and defense forces and their level of readiness for an immediate response to challenges and threats to the national security of Ukraine. In particular, this Concept has certain methodo-

logical differences from previous strategic documents in this direction. Its positive point is to conduct a detailed analysis of the safety of the environment of Ukraine, which made it possible to identify the most powerful threats to national security that impede the normal functioning of the Ukrainian state and that the main efforts of the country should now be addressed. Against this background, the main drawback of law enforcement reforms is their spontaneity and schematics instead of consistent and well-balanced government policy, which should be based on the principles of planning, systematic, and transparency.

V. Kolesnik rightly points out that law enforcement activity in the field of public administration is ensured by: timely forecasting and identification of trends in the development of the crime situation, assessment of the degree of danger and the scale of crime at the national, regional, local and international levels; the ability of law enforcement agencies and special services to anticipate detection and timely response to threats in the areas of public administration that affect the national security of Ukraine in order to neutralize them; constant improvement of the mechanisms and organizational foundations of countering threats to the national interests of the state and the subjects of national security; increasing the level of interaction between law enforcement agencies and special services in combating crime, which threatens the objects of national security of Ukraine; proactively determine the ways and means of protecting and protecting the objects of national security of Ukraine; development, approval and implementation of

criteria for evaluating the activities of law enforcement agencies and special services; an effective system of protecting government from unlawful external and internal influences; high-quality implementation of special activities (intelligence, counterintelligence) to prevent manifestations of intelligence and subversive activities of foreign intelligence services in Ukraine, the introduction of an effective system to protect citizens of Ukraine from illegal actions outside Ukraine; continuous improvement of means and technologies for ensuring national security by responsible entities [2]. Considering the above, the Security Service of Ukraine is an important subject of law enforcement, whose tasks include: prevention, detection, suppression and prosecution of crimes against the peace and security of mankind, terrorism, corruption and organized crime in the field of governance and the economy and other illegal actions that directly threaten the vital interests of Ukraine [3].

Analysis of recent publications and researches. It should be noted that recently, there has been increased attention among scholars in various branches of science to the study of problems of ensuring state security in the context of reforming the domestic law enforcement system. Among the scientists who deal with this problem, one can distinguish the works: V. Bielievstseva, K. Bieliakova, O. Dzoban, V. Lipkan, I. Korzh, V. Nastiuk, A. Opalov, V. Pylypchuk, V. Sazonov, S. Trofimov and others. The problems of searching and optimizing the priority principles of state policy in the field of combating organized crime and ensuring state security in a certain way explored in their scientific works

the following scholars: V. Hlukhoveria, V. Kolesnyk, H. Sytnyk, S. Shepetko, O. Fedosova, Yu. Mykhailova etc. However, the consideration of the problematic issues of the implementation of state policy in the field of state security in the context of reforming the law enforcement system, none of these authors have investigated, which increases the relevance of the subject of this research.

An important place in the system of law enforcement agencies is occupied by the Security Service of Ukraine, which, in accordance with its competence, provides for the state security of Ukraine. However, having carried out the generalization of the scientific works of the above authors, it's rightly pointed out by A. Zhariy that the imbalance of authority to ensure state security among the system of state bodies remains the key problem in improving the activities of the Security Service of Ukraine [4]. As part of a comprehensive monographic study in 2017, V. Pylypchuk, O. Bielov, S. S. Kudinov [5] and other specialists investigated the problematic issues of special service reform in the context of implementing European integration. Recently, in Ukraine, on a permanent basis, the reform of the components of the domestic law enforcement system continues, and therefore the conduct of scientific research, taking into account the innovations of the national legislation and the implementation of the priority principles of state law enforcement, requires increased attention and is considered expedient and necessary from the standpoint of public administration, and practical component.

Recently, in Ukraine, on a permanent basis, the reform of the compo-

nents of the domestic law enforcement system has continued. In this regard, conducting of scientific research, taking into account the novelties of the national legislation and the implementation of the priority principles of state law enforcement, requires enhanced attention and is considered expedient and necessary, both from the standpoint of the theory of public administration and the practical component.

The foregoing leads to consideration of problematic issues of ensuring state security in the context of reforming the domestic law enforcement system and its components, with the aim of finding the best ways to improve the efficiency of the public administration system in the specified context.

Under the provisions of Art. 19 of the Law of Ukraine "On national security" as of June 21, 2018 № 2469 [6], namely the Security Service of Ukraine is defined as state special-purpose body with law enforcement functions that ensures state security, including countering intelligence and subversive activities against Ukraine, fighting terrorism, protecting state sovereignty, constitutional structure and territorial integrity, defense, scientific and technical potential, cyber security, economic and information security of the state, protection of state secrets with the strict observance of the rights and freedoms of man and citizen. However, the urgent issue remains the acceleration of the reform of the Security Service of Ukraine as a body that ensures state security.

The Concept for the Development of the Security and Defense Sector of Ukraine, approved by Decree of the President of Ukraine as of March 14,

2016 № 92, determines that the reform of the Security Service of Ukraine is aimed at developing its abilities to counteract modern external and internal threats to national security and is carried out in the direction of updating the doctrinal and conceptual approaches to the organization of the activities of the Security Service of Ukraine, as well as functional optimization of its organizational structure.

According to the results of the special service reform, it is expected to create an effective system of countering new threats to national security in the sphere of state security and improving the mechanisms for timely identification and response to them in the framework of the further development of the state security and defense sector; changes are expected with the aim of improving the organizational, legal and other principles of the functioning of the Security Service of Ukraine, taking into account the experience of the special services of the EU and NATO member states; a radical update of the content and organization of information and analytical work in the activities of the Security Service of Ukraine, the introduction of the latest information technologies in the processing of received information, the maximum reduction of law enforcement data in the information files of the national special services; expansion and acquisition of the necessary operational and technical capabilities by the bodies and units of the Security Service of Ukraine in obtaining operational information; the deepening of the interaction of the Security Service of Ukraine with other components of the security and defense sector, public authorities, institutions and organizations on new

principles; improvement of the existing and formation of new partnership mechanisms with the special services of foreign states in accordance with national legislation and international treaties.

The legal basis for improving the functioning of the domestic special service was to become a concept for reforming the Security Service of Ukraine, the draft of which suggested that the national special service would be reformed until 2020. It was supposed to introduce such changes as: optimization of bodies and divisions, refusal to duplicate the functions of other law enforcement agencies (in particular, in the fight against organized crime and corruption); reinforcement of core areas (counterintelligence); introduction of civil democratic control; solid demilitarization.

In addition, it is planned that in the process of reforming the Security Service of Ukraine, it will retain tasks related to the investigation of crimes against the State, the prevention of terrorism, as well as the smuggling of drugs, radioactive materials, weapons and firearms. It should be noted that the development of this Concept was carried out by the International Consultative Group on the reform of the Security Service of Ukraine, which included representatives of the NATO Liaison Office in Ukraine, advisers of the EU Advisory Mission on Civil Security Sector Reform of Ukraine and experts from foreign partner services. According to the official position of the Chairman of the EU Advisory Mission, it was announced that without reforming the special services, further transatlantic advancement of Ukraine to the EU and

NATO is impossible. In other words, the delay in the reform of the Security Service of Ukraine remains a negative factor in the development of the domestic law enforcement system.

Considering the above, the reform of the Security Service of Ukraine should be consistent with the concepts (programs) of reforming and developing the security and defense sector bodies according to a single purpose, goal, and objectives, based on modern threats to the national interests of Ukraine and requires the development of adequate mechanisms to counter such threats.

Formulation of the aim of the article. The aim of the article is to determine the effectiveness of the state policy in the field of state security in the context of reforming the domestic law enforcement system, based on a real assessment of its capabilities.

Presentation of the main material of the study. The aspiration of Ukraine to realize the European vector of development is accompanied by the intensification of the geopolitical struggle, the unfolding of active reconnaissance, subversive and sabotage activities of the special services of the Russian Federation on its territory. The implementation of aggressive geopolitics in Ukraine by the Russian Federation creates an urgent need for a radical restructuring of the domestic special services in response to today's realities. In this regard, the need to revise approaches to the organization and activities of the Security Service of Ukraine as a component of the state security sector is being updated.

The strategic goal of reforming the Security Service of Ukraine should be: determination of a set of basic measures

aimed at creating effective, dynamic and flexible in management, professional bodies provided with modern material and technical means of bodies and units of counterintelligence of the European level, bringing the tasks, functions and areas of their activities in line with modern needs of ensuring national interests, protecting rights person and citizen, society and state from external and internal threats in the context of the implementation of state policy of National Security; building confidence in the activities of the domestic special services, a positive image of the domestic special services in society, the legal consciousness of citizens and an understanding of the need to perform the tasks of ensuring the national security of Ukraine.

The main tasks of legislative support for the special service reform should be to determine the conditions for: an adequate and flexible response to the threats to the national security of Ukraine (aggressive actions of the Russian Federation, which are carried out to deplete the Ukrainian economy and undermine social and political stability in order to destroy the state of Ukraine and seize its territory; the inefficiency of the national security and defense system of Ukraine; corruption and inefficient public administration; economic crisis, depletion of state financial resources, decline in the standard of living of the population; threats to energy, information, environmental security; threats to cyber security and security of information resources, critical infrastructure), rational use of opportunities and resources; comprehensive improvement of national security legislation, which would determine the mechanisms of the

national security governance system, regulate the structure and composition of the security sector, coordination and interaction of its bodies; the professionalization of the security and defense sector, the improvement of the professional level of the staff, its effective motivation for the proper execution of tasks for its intended purpose, the most expedient reduction of the service units of the bodies of this sector.

Along with this, the issue of optimizing the structure of the Security Service of Ukraine and reforming its management system is acquiring great importance. Thus, taking into account the tasks and powers of the special services, its general structure should be the Central Directorate of the Security Service of Ukraine, its subordinate regional bodies; military counterintelligence agencies, as well as enterprises, organizations, educational, scientific, research institutions. Based on the above, there is a need to optimize the structure and functions of both the Central Directorate and regional bodies for their functional purpose. Bringing the structure of the Security Service of Ukraine in line with the needs of operational activities, taking into account the experience of European states, also requires optimizing the ratio of senior management positions to the total number of personnel.

Equally important aspect of reforming the domestic special service of Ukraine and proper provision of human rights and freedoms is ensuring the separation of the functions of the Security Service of Ukraine from those of other law enforcement agencies. In particular, through the pre-trial investigation, it is possible to initiate amendments to the

existing criminal procedural legislation of Ukraine regarding alternative jurisdiction in accordance with the established procedure. Such measures will serve to avoid duplication of functions of various law enforcement agencies, the intersection of the interests of these bodies and their units engaged in operational investigative activities in relation to the same object, dispersing their efforts, diverting a certain amount of forces and means that would be more appropriate to use for other important areas of the fight against crime in accordance with the tasks defined by the legislation. It appears that the investigative jurisdiction of investigators of the Security Service of Ukraine should be limited to investigating crimes against the foundations of Ukraine's national security in protecting state secrets, peace, human security and international law, terrorism and crimes committed by transnational criminal groups.

It should be noted that the Verkhovna Rada of Ukraine on February 23, 2018 registered a draft law "On Amendments to certain legislative Acts of Ukraine concerning strengthening the institutional capacity of the Security Service of Ukraine" (№ 8057), prepared to limit the powers of special services outside the sphere of state security to increase the level of security business from abuses by law enforcement. This draft law proposes, in particular, the investigation of smuggling and illegal circulation of technical means of obtaining information to delegate to the National Police of Ukraine; the investigation of terrorism financing and legalization of criminal proceeds should be transferred to the authorities responsible for monitoring tax compliance; exclude from

the list of priority tasks of the Security Service of Ukraine measures aimed at countering offenses in the sphere of economic activity, as well as corruption offenses; prohibit the intervention of special services in economic activities, if it does not pose a threat to state security, and also exclude from the structure of the service special units in the fight against corruption and organized crime.

In addition, the law proposes to expand the powers of the Verkhovna Rada of Ukraine to receive reports from the Security Service of Ukraine. Against this background, one should point out the existing problematic issues of strengthening the interdepartmental interaction of the domestic special services with other law enforcement agencies, as well as issues of providing unimpeded access and the full format of the use of interdepartmental information systems, registries, data banks that are held by other state bodies.

Thus, summarizing the above, one cannot but agree with the position proposed by O. I. Tkach and V. V. Sorokin, who believe that under such conditions of reforming the special services, there is two problems: external and internal. So, the external problem can be described as a “integration challenge”, since Ukraine, as a member state of the Council of Europe and in a state that has embarked on European and Euro-Atlantic integration, should be provided with a transformation of the law enforcement system in accordance with European standards, which enshrined in strategic documents defining areas of cooperation between Ukraine and the EU, the Council of Europe and NATO. At the same time, the internal problem can be called the “effective-

ness challenge”, since it is extremely important to ensure the successful and effective functioning of the law enforcement agencies of Ukraine in order to guarantee the protection of the rule of law, the maintenance of stability in the state, the removal of any challenges and threats to state security. In this context, it is advisable to take advantage of the achievements of the theory of institutional isomorphism, which argues that institutions and organizations tend to imitate the structure of other, more effective ones, but in practice, increasing the similarity between organizations, that is, isomorphism, does not lead to an increase in the efficiency of those that follow [5].

Conclusions and further considerations for research. The effectiveness of state policy in the field of ensuring state security directly depends on the effectiveness of the implementation of the reform of the domestic special services, taking into account the best practices of the European experience in this field. The task of reforming the Security Service of Ukraine as a state special-purpose body with law enforcement functions that ensures state security should be the creation of a modern, efficient special service according to the best European analogues. This requires, above all, the introduction of adequate and balanced state security, which should include a set of basic measures aimed at creating effective, dynamic and flexible in management, professional, provided with modern material and technical means of bodies and units of counterintelligence of the European level, bringing tasks and directions of their activities in accordance with the modern needs of ensuring national in-

terests, protecting the rights of man and citizen, society and the state from external and internal threats; forming a space of trust in the activities of the domestic special services, a positive image of the Security Service of Ukraine in society, legal awareness of citizens and an understanding of the need to perform the tasks of ensuring the state security of Ukraine.

As with any reform, the reform of the security services is a gradual and dynamic development of the Security Service of Ukraine provides for legislative support of such processes and the introduction of a set of relevant organizational and institutional measures. Indeed, the reform of the Security Service of Ukraine is declared in a number of strategic documents of our state, in particular, in the Annual National Program Ukraine – NATO for 2018, approved by Decree of the President of Ukraine of March 28, 2018 № 89/2018 [8], in the Law of Ukraine “On National Security of Ukraine”, and in the draft Concepts of reforming the Security Service of Ukraine.

Thus, the reform of the domestic special services is planned to be implemented consistently on the basis of optimal government decisions, which should take into account the positive experience and best practices of the leading EU states. Analyzing the current state and prospects for reforming the domestic special services, we can state that there is a slow development of these processes, based on the measures that are being implemented in the context of the implementation of state security. Under these conditions, it can be stated that there is no political will to reform the national special service, al-

though this has been insisted on by the European community and Western experts over the past three years. NATO representatives, unfortunately, do not see progress in the process of future reform of the Security Service and warns against a reduction in the level of trust from foreign partners.

Even in the provisions of the Medium-term Plan of priority actions of the government until 2020 and in the provisions of the Strategy for Reforming the State Administration of Ukraine for 2016–2020 [9], the principles of reforming the domestic special services are not envisaged, since only the reform concept of the Security Service of Ukraine, developed back in 2016, should be the starting point for the launch of the reform. Against this background, instead of signing by the President of Ukraine, the text of the concept has been returned from the National Security and Defense Council for revision to the special services and is still there. Thus, the reform of the Security Service of Ukraine remains an aspiration, although it was highlighted as a key priority of state security, and permanent delay seriously undermines the confidence of western partners in Ukraine. Unfortunately, NATO’s expectations for Ukraine in 2018 in this field have not been realized. Considering that the special service reform is one of the main ones in the reform of Ukraine’s national security, the state should optimize and coordinate efforts to speed up the creation of a demilitarized, depoliticized, effective law enforcement structure. Likewise, the security policy of our state should be consistent, focusing on the importance of establishing and improving inter-agency cooperation be-

tween law enforcement agencies of the domestic security sector.

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