

LEGAL REGULATION OF ECONOMIC SECURITY IN UKRAINE

Platukhin O.H.,
Postgraduate student,
Scientific Research Institute
state construction and local self-government,
National Academy of Legal Sciences of Ukraine
e-mail: platukhin.oleksandr@gmail.com

Platukhin O.H. Legal regulation of economic security in Ukraine.

It is indicated in a legal state, regulation of interaction between members of society, coordination of their interests and smoothing of conflicts arising between them and their associations is unthinkable without law. With the help of the influence of law on social relations, it is possible to order and regulate them in a civilized manner. In the sphere of achieving a state of security, the law allows you to set the limits of what is permitted, to determine the obligations and prohibitions in the behavior of the relevant subjects. Due to regulatory legal regulation, security receives a unique meaning that determines the final goal of its provision, connects it with national priorities and interests of each legal entity, preventing blurring of the understanding of the essential characteristics of the basic category «national security» and its derivatives.

The conducted scientific analysis of the legal regulation of the economic security system of Ukraine made it possible to conclude that it has a complex and multifaceted nature, that is, it involves the creation of a complex of legal, economic and administrative-organizational mechanisms aimed at ensuring the rights of citizens and other subjects of economic activity to protect private property, economic freedom and unimpeded implementation of economic and other economic activities. It is pointed out that the state should implement the appropriate organizational and legal provision of economic security of Ukraine, aimed at increasing the investment attractiveness of the country, eliminating offenses in the economic sphere. The analysis of regulatory legal acts made it possible to single out the following shortcomings of the legal provision of economic security of Ukraine: complexity, vagueness and inconsistency of individual legislative norms, ambiguous interpretation in their application; inconsistency between developers and lack of system of legal acts regulating economic security. It was concluded that the presence of such shortcomings indicates the need to modify approaches to the formation of legal support for the economic security of the state, to make changes to the current legislation.

Key words: economic security, national interests, economic activity, legal regulation, protection of economic rights.

Платухін О.Г. Правова регламентація забезпечення економічної безпеки в Україні.

Зазначається, що в правовій державі регулювання взаємодії між членами суспільства, узгодження їх інтересів і згладжування конфліктів, що виникають між ними та їх об'єднаннями, немислимі без права. За допомогою впливу права на суспільні відносини можна їх цивілізовано впорядкувати і врегулювати. У сфері досягнення стану безпеки право дозволяє встановлювати межі дозволеного, визначати обов'язки і заборони в поведінці відповідних суб'єктів. Завдяки нормативно-правовому регулюванню безпека набуває унікального змісту, який визначає кінцеву мету її забезпечення, пов'язує її з національними пріоритетами та інтересами кожного суб'єкта права, не допускаючи розмитості розуміння сутнісних характеристик базової категорії «національна безпека» та його похідні.

Проведений науковий аналіз правової регламентації системи економічної безпеки України дав змогу зробити висновок, що вона має комплексний та багатоаспектний характер, тобто передбачає створення комплексу правових, економічних та адміністративно-організаційних механізмів, спрямованих на забезпечення прав громадян та інших суб'єктів економічної діяльності на захист

приватної власності, економічну свободу та безперешкодне здійснення господарської та іншої економічної діяльності. Вказано на здійснення державою відповідного організаційно-правового забезпечення економічної безпеки України, спрямованого на підвищення інвестиційної привабливості країни, усунення правопорушень в економічній сфері. Аналіз нормативно-правових актів дозволив виокремити такі недоліки правового забезпечення економічної безпеки України: складність, нечіткість та суперечливість окремих законодавчих норм, неоднозначне тлумачення при їх застосуванні; неузгодженість між розробниками та безсистемність нормативно-правових актів регулювання економічної безпеки. Зроблено висновок, що наявність таких недоліків вказує на необхідність модифікації підходів до формування правового забезпечення економічної безпеки держави, внесення змін до чинного законодавства.

Ключові слова: економічна безпека, національні інтереси, господарська діяльність, правова регламентація, захист економічних прав.

Introduction.

In a legal state, regulation of interaction between members of society, coordination of their interests and smoothing of conflicts arising between them and their associations is unthinkable without law. With the help of the influence of law on social relations, it is possible to order and regulate them in a civilized manner. In the sphere of achieving a state of security, the law allows you to set the limits of what is permitted, to determine the obligations and prohibitions in the behavior of the relevant subjects. Due to regulatory legal regulation, security receives a unique meaning that determines the final goal of its provision, connects it with national priorities and interests of each legal entity, preventing blurring of the understanding of the essential characteristics of the basic category «national security» and its derivatives.

The law contains normative and value indicators, which in their integrity allow to ensure the stability of the security environment formed due to the interaction of society and the state, which is important for a person, civil society and the state. At the same time, the law forms norms and relations of a procedural and material nature regarding the behavior of subjects in the field of national security, defines and approves general social values that are subject to legal protection, and carries out such protection [1, p. 85-86].

The legal influence on public relations in the sphere of national security is aimed at the realization of two main goals: firstly, to regulate those social relations that are formed in the sphere of national security (a narrow special legal function), and secondly, to create such conditions under which, having reached the minimum safe level, subjects will be able to unimpededly realize the needs of a higher level aimed at the further development of their potential. The task of law is seen in determining the priorities of interests and values for various subjects.

It should be noted that in the conditions of external and internal threats to national security (globalization, military aggression, migration processes, etc.), the effectiveness of the implementation of legal prescriptions regulating relations in the sphere of economic security has decreased. These circumstances indicate, in particular, the need for a scientific analysis of the systematization of regulatory and legal documents aimed at ensuring economic security in Ukraine.

Theoretical framework or Literature Review.

The peculiarities of the legal regulation of the functioning of bodies whose activities are aimed at ensuring economic security became the subject of research by such scientists as O. Bandurka, V. Boyko, O. Vlasyuk, M. Zhitar, T. Zubko, I. Kozyakov, I. Kolomiets, O. Korystin, M. Kovalenko, S. Lekar, O. Skoruk, T. Tokarskyi, V. Shemchuk, V. Shlemko, I. Yakoviyk and others.

Despite the existence of thorough scientific works in the fields of national security, the issue of legal regulation of the economic security system of Ukraine is not fully resolved in domestic science.

The purpose of the article is to analyze the current state of legal provision of economic security in Ukraine and its compliance with the obligations under the association agreement with the European Union (hereinafter - the EU).

Results and discussion.

Legal regulation of ensuring economic security of the country should first of all be determined by national economic interests and threats arising from the improper behavior of subjects of social relations, and should also be aimed at the formation of legal relations between the relevant subjects, at ensuring the normatively regulated activity of state bodies endowed with law enforcement powers in of the specified field [2, p. 172].

One of the tasks of Ukraine in modern conditions of development is the creation of an effective system of legal support for the economic security of the state, the influence of which on the general state of the economy and the possibilities of its sustainable development is undeniable. As rightly noted in the literature, a detailed analysis and modeling of the mechanism of legal provision of the economic security of the state is one of the necessary prerequisites for the creation and further improvement of modern legislative regulation in this area, filling existing gaps and replacing declarative norms with actually working ones [3, c. 4].

Just like the subject of regulation, law also develops dynamically, therefore the formation of its system in terms of ensuring economic security requires a clear definition of the model of economic security itself, requires proper systematization and ordering, and, according to some scientists, a conceptual approach to its creation taking into account national characteristics formation and development of economic relations in various spheres of life - economic, tax, budgetary, financial, etc. [4, p. 103]. Legal regulation of the sphere of ensuring economic security and its legal foundations requires adaptation and reform, taking into account objective and subjective factors, in particular: certainty of the subject, methods of legal regulation of relations; degree of legal regulation of these relations; stability and stability of relations that are planned to be regulated by law.

At the applied level, the legal provision of economic security is understood by specialists as a process of legal regulation of economic relations and the implementation of legal prescriptions aimed at ensuring the necessary conditions for business development, stability of economic activity, as well as the organization of its protection against the influence of various external and internal threats [5, p. 35]. At the macro level, the legal provision of economic security of Ukraine can be positioned as a system of all regulatory and legal acts ordered in a certain way, which determine the attitude of society, the state, individuals and subjects of economic activity to issues of ensuring economic security.

Regulation of relations in the sphere of ensuring economic security, determining the order of activity and protection of economic entities and individuals in Ukraine is carried out by a system of primary and secondary regulatory legal acts.

First of all, the provisions of the Constitution of Ukraine dated June 28, 1996 No. 254к/96-BP and the relevant Codes and Laws of Ukraine should be included in the group of primary acts, the separate norms of which are directly aimed at ensuring economic security. In particular, these are the Economic Code of Ukraine dated January 16, 2003 No. 436-IV165, the Budget Code of Ukraine dated July 8, 2010 No. 2456-VI, the Customs Code of Ukraine dated March 13, 2012 No. 4495-VI, the Tax Code of Ukraine dated December 2 .2010 No. 2755-VI, Code of Ukraine on Bankruptcy Procedures dated 10.18.2018 No. 2597-VIII; Code of Ukraine on Administrative Offenses dated 07.12.1984 No. 8073-X, Criminal Code of Ukraine dated 04.05.2001 No. 2341-III.

The main laws that determine the foreign and domestic policy of the state in the field of economic security include: «On the National Security of Ukraine» dated 06/21/2018 No. 2469-VIII, «On the Principles of Domestic and Foreign Policy» dated 07/01/2010 No. 2411-VI, «On the principles of state regional policy» dated 02/05/2015 No. 156-VIII, «On investment activity» dated 09/18/1991 No. 1560-XII169, «On protection against unfair competition dated 06/07/1996 No. 236/96-VR, «On state regulation of the securities market in Ukraine» dated October 30, 1996, No. 448/96-VR; «On the basic principles of state financial control in Ukraine» dated January 26, 1993 No. 2939-XII; «On insurance» dated 11/18/2021 No. 1909-IX; «On financial mechanisms for stimulating export activity» dated March 24, 2022 No. 2154-IX; «On the protection of consumer rights» dated November 19, 2022 No. 2529-IX.

The listed laws: characterize external and internal threats in the economic sphere of Ukraine, determine factors that undermine the stability of the socio-economic system of the state; set the task of defining criteria and parameters that characterize national interests in the field of economy and meet the requirements of Ukraine's economic security; determine the directions of economic policy formation, institutional transformations and necessary mechanisms, eliminate or mitigate the influence of factors that undermine the stability of the national economy [6, p. 8].

It should be pointed out the important role of international legal acts ratified by the Verkhovna Rada of Ukraine in accordance with Art. 9 of the Constitution of Ukraine. The specified documents are a certain basis for the implementation of global policy in the field of economic security, act as a reference point for the adoption of national normative acts on economic issues, issues of combating economic crime and establishing international cooperation in the field of finance, customs affairs, investment activities, etc. [7, p. 103]. The most recent documents of this segment include: the Criminal Convention

of the Council of Europe on Combating Corruption dated January 27, 1999; The Council of Europe Civil Convention on Combating Corruption dated November 4, 1999; the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime and on the Financing of Terrorism dated May 16, 2005; Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime: Convention dated November 8, 1990. The main program document regulating the development of the national and economic security system of Ukraine is the National Security Strategy of Ukraine [9].

Worthy of attention are the provisions of the laws that determine the legal status of certain subjects of ensuring the economic security of the state, namely: «On the Antimonopoly Committee of Ukraine» dated November 26, 1993 No. 3659-XII, «On the National Bank of Ukraine» dated May 20, 1999 No. 679-XIV, «About the Cabinet of Ministers of Ukraine» dated 02/27/2014 No. 794-VII, «About the Accounting Chamber» dated 07/02/2015 No. 576-VIII, «About the Security Service of Ukraine» dated 03/25/1992 No. 2229-XII, «On the National Commission for State Regulation in the Fields of Energy and Communal Services» dated September 22, 2016, No. 1540-VIII, «On the National Police» dated July 2, 2015, No. 580-VIII, « On civil service» dated 10.12.2015 No. 889-VIII, «On the Prosecutor's Office» dated 05.11.1991 No. 1789-XII. The specified laws determine the rights and obligations of relevant state bodies in the field of ensuring economic security in general and individual economic entities, the limits of their territorial and subject competence, etc.

An important role in the regulation of social relations in the sphere of ensuring economic security belongs to such secondary acts as secondary legal acts - decrees of the President of Ukraine, resolutions and orders of the Cabinet of Ministers of Ukraine, orders of the Ministry of Finance of Ukraine, acts of the National Bank of Ukraine, the State Fiscal Service of Ukraine, departmental normative acts of central executive bodies, normative acts of local authorities. resolutions of the Verkhovna Rada of Ukraine of normative and legal content, local normative and legal acts.

Sub-legal normative legal acts, having a state character and being adopted in accordance with the procedure established by other normative acts, have certain features in the field of economic security. They, in particular: detail and specify the principle provisions of laws, ensuring the maximum realization of the legitimate interests of individuals and legal entities, society in general in the field of economy; normalize social relations in the specified sphere, fixed in the authority of the body that issues the specified type of acts, instead of the law; differ in diversity and heterogeneity, however, due to the lack of legal consolidation of some of them, it is often quite difficult to determine their hierarchy and legal force.

Among the acts of the Cabinet of Ministers of Ukraine (hereinafter - the CMU), one should note the resolutions and orders «On the State Fiscal Service of Ukraine» dated 05/21/2014 No. 236, «On approval of the list of state-owned objects of strategic importance for the economy and security of the State» dated 03/04/2015 No. 83, «Some Issues of State Investment Management» dated 07/22/2015 No. 571, «On Approval of the Concept of Ensuring National Security in the Financial Sphere» dated 08/15/2012 No. 569-p, « On the approval of the Energy Strategy of Ukraine for the period until 2035, «Safety, energy efficiency, competitiveness» dated 08/18/2017 No. 605, «Questions of the Ministry of Economic Development, Trade and Agriculture» dated 09/11/2019 No. 838.

The President of Ukraine, as a guarantor of stability in society, in order to fulfill his powers enshrined in the Constitution of Ukraine, issues normative acts aimed at the formation and implementation of the basic provisions of economic security, in particular, «Questions of the National Council on Anti-corruption Policy» dated 25.06.2019 No. 453/2019, «On the Council of Experts on Energy Security» dated 05/29/2020 No. 206/20201.

The normative legal acts of the executive authorities adopted to ensure the implementation of the provisions of the relevant laws, detailing the specifics of their implementation, include the orders of the Ministry of Finance of Ukraine regulating relations in the tax sphere, as a component of the national economic sphere, in particular: On the approval of the Regulation on the registration of payers value added tax, On approval of the Procedure for accounting of taxpayers and fees, On approval of the Procedure for keeping operational accounting of taxes, fees, payments and a single contribution to mandatory state social insurance by tax authorities, etc.

Among the decisions of the coordination body on issues of national security and defense under the President of Ukraine – the National Security and Defense Council of Ukraine, the provisions of which constitute the legal basis for the formation and implementation of state policy in the

field of economic security, should first of all include the Decrees: On the decision of the National Security and Defense Council of Ukraine « On urgent measures to ensure the national security of Ukraine in the economic sphere and protect the interests of depositors» dated December 18, 2016 No. 60/2016; On the decision of the National Security and Defense Council of Ukraine «On the application, cancellation and introduction of changes to personal special economic and other restrictive measures (sanctions)» dated May 14, 2020 No. 184/2020; On the decision of the National Security and Defense Council of Ukraine «On the National Security Strategy of Ukraine» dated September 14, 2020 No. 392/2020; On the decision of the National Security and Defense Council of Ukraine «On the Economic Security Strategy of Ukraine for the period until 2025» dated August 11, 2021 No. 347/2021, etc.

At the local level, within the framework of ensuring regional economic security, the role of acts of local state administrations, which are responsible, in particular, for solving issues of: socio-economic development of the respective territories, budget, finance and accounting, property management, privatization, promoting the development of entrepreneurship and implementation state regulatory policy, foreign economic activity [8].

Administrative and legal norms occupy a special place in the structure of the legal basis for the implementation of state policy in the sphere of ensuring economic security. Given the fact that many of the principle provisions of administrative law, which concern the provision of economic security, in particular, the status of participants in administrative-legal relations, systematized in other branches of law, in administrative law are scattered in a significant number of normative-legal acts of different legal force, according to some scientists, a special law should be developed that would establish in the field of economic security: the basic principles of public administration; legal status of subjects; forms and methods of state management activity and implementation of executive power; methods and procedure for ensuring legality in state administration.

In today's conditions, the conclusions of V.L. Ortynskyi regarding the need to develop a set of measures that would allow identifying and eliminating threats to economic security, creating conditions for effective and dynamic economic development. It is about ensuring the effectiveness and efficiency of the components of the political and legal mechanism for ensuring economic security, which unite all elements of the system with the aim of implementing the National Security Strategy of Ukraine as a concept that defines one of the directions of the state economic policy [6, p. 9].

Conclusions.

The above allows us to summarize that the legal regulation of the economic security system of Ukraine is complex and multifaceted in nature, which involves the creation of a complex of legal, administrative-organizational and economic mechanisms aimed at ensuring the rights of citizens and other subjects of economic activity to protect private property, economic freedom and unhindered implementation of economic and other economic activities. This requires the state to provide appropriate organizational and legal support for Ukraine's economic security, aimed at increasing the country's investment attractiveness, and eliminating offenses in the economic sphere.

The analysis of normative legal acts made it possible to single out the shortcomings of the legal provision of economic security of Ukraine: the complexity and inconsistency of individual legislative norms, ambiguous interpretation in their application; the vagueness and inconsistency of certain provisions of the legislation; inconsistency between developers and lack of system of individual legal acts regulating economic security. Such shortcomings lead to the low effectiveness of state measures in the specified area and the impossibility of achieving its high level. This indicates the need to modify approaches to the formation of legal support for the economic security of the state, to make changes to the current legislation.

REFERENCES:

1. Bohutskyi, P. (2018). Poniattia ta oznaky prava natsionalnoi bezpeky Ukrainy [Concepts and features of the law of national security of Ukraine]. *Informatsiia i pravo*. 3 (26), 84–91 [in Ukrainian].
2. Pavlichenko, Ye., Huzenko, O. (2020). Normatyvno-pravove rehuliuвання ekonomichnoi bezpeky Ukrainy [Normative and legal regulation of economic security of Ukraine]. *Pidpryemnytstvo, hospodarstvo i pravo*, 169–175 [in Ukrainian].

3. *Pravove ta zakonodavche zabezpechennia ekonomichnoi bezpeky Ukrainy [Legal and legislative provision of economic security of Ukraine]: monohrafiia / [A.P. Hetman, Ye.M. Bilousov, H.V. Anisimova ta in.].* (2017). Kharkiv: Pravo [in Ukrainian].
4. Pavliutin, Yu. (2020). Ekonomichna bezpeka yak ob'ekt publicznego administruvannia [Economic security as an object of public administration]. *Pravo i suspilstvo.* 6.2 (2), 99–105 [in Ukrainian].
5. Zachosova, N., Chakalov, R. (2017). Pravove zabezpechennia ekonomichnoi bezpeky sub'ektiv hospodarskoi diialnosti [Legal provision of economic security of subjects of economic activity]. *Pryazovskyi ekonomichni visnyk.* 8, 34–38. URL: http://pev.kpu.zp.ua/journals/2017/4_04_uk/9.pdf [in Ukrainian].
6. Ortynskyi, V. (2016). Analiz normatyvno-pravovoi osnovy zabezpechennia ekonomichnoi bezpeky [Analysis of the normative and legal framework for ensuring economic security]. *Visnyk Natsionalnoho universytetu «Lvivska politekhnika».* 855, 4–12 [in Ukrainian].
7. Koshykov, D. (2020). *Administratyvno-pravovi zasady realizatsii derzhavnoi polityky u sferi zabezpechennia ekonomichnoi bezpeky derzhavy [Administrative and legal principles of implementation of state policy in the sphere of ensuring the economic security of the state]: monohrafiia.* Kharkiv: Fakt [in Ukrainian].
8. Pro mistsevi derzhavni administratsii: Zakon Ukrainy [On local state administrations: Law of Ukraine]. 09.04.1999 № 586-XIV. URL: <https://zakon.rada.gov.ua/laws/show/586-14> [in Ukrainian].
9. Pro rishennia Rady natsionalnoi bezpeky i oborony Ukrainy «Pro Stratehiiu natsionalnoi bezpeky i oborony Ukrainy»: Ukaz Prezydenta Ukrainy [On the decision of the National Security and Defense “On the National Security and Defense Strategy of Ukraine”]. 26.05.2015 № 287/2015. URL: <https://zakon.rada.gov.ua/laws/show/287/2015> [in Ukrainian].