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Ivan VYHIVSKYI

PhD (Law), independent researcher; Kyiv, Ukraine, postal code 01001 (vim.ukrainian@gmail.com)

ORCID: 0009-0007-6942-9429

Juraj ONDRIAŠ

PhD (International Economic Relations), Assistant Professor of Faculty of International Relations, University of Economics in Bratislava, 1/b Dolnozemska cesta Street, Bratislava, Slovak Republic, postal code 852 35 (juraj.ondrias@euba.sk)

ORCID: 0000-0003-4837-0097

Іван ВИГІВСЬКИЙ

кандидат юридичних наук, незалежний дослідник, м. Київ, Україна, індекс 01001 (vim.ukrainian@gmail.com)

Юрай ОНДРІАШ

доктор філософії (міжнародні економічні відносини), доцент факультету міжнародних відносин, Університет економіки в Братиславі, вул. Підземна дорога, 1б, м. Братислава, Словачка Республіка, індекс 85235 (juraj.ondrias@euba.sk)

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ROLE OF LAW ENFORCEMENT AGENCIES IN THE IMPLEMENTATION OF THE NATIONAL SECURITY STRATEGY IN UKRAINE (1991 – 2014)

Abstract. *The purpose of the study is to analyze the current legislation of Ukraine in the context of the system formation for ensuring national security of Ukraine, to identify the role of law enforcement agencies in building the national security strategy, and to study the main areas of legal regulation of the law enforcement agencies activities in this area. The Methodology of the Research.* In the study there have been used general scientific and special methods, in particular, owing to the historical legal method, the conceptual principles in interpreting the concept of national security and law enforcement agencies have been revealed, the legislation has been analyzed; systemic structural and formal logical methods have been applied. **The scientific novelty:** the areas of activity of law enforcement agencies as subjects of the national security system of Ukraine have been analyzed, and the directions of state policy implementation in this area have been outlined. **Conclusions.** Based on the analysis of the legislation of Ukraine during the period of 1990 – 2014, it has been stated that the national security system is a set of subjects of ensuring national security, which united common goals regarding the interests of the state and society. The fundamental state-forming documents of the 1990s outlined a set of identical concepts related to national security. The specification of threats in the field of national security, and therefore the creation of more effective directions of state policy, took place at the beginning of the 2000s and the adoption of the first two National Security Strategies in 2007 and 2012. However, their excessive declarativeness, terminological overload partially improved the practical activities of security subjects.

The activities of law enforcement agencies in this area are mainly the protection of citizens' rights and freedoms, the state and public interests from unlawful encroachments, ensuring security. It has been determined that during the specified period, the activities of law enforcement agencies in the field of national security required coordination of various branches of legislation, the adoption of special legislation. It has been noted that such specific steps towards developing a new national security strategy with a clearer and more systematic regulatory framework took place after 2014: a number of innovations were adopted that update the systemic development of security and defense sector, which also include law enforcement and intelligence agencies.

Key words: law enforcement agencies, national security, Ministry of Internal Affairs, Security Service of Ukraine, entities ensuring national security.

РОЛЬ ПРАВООХОРОННИХ ОРГАНІВ У РЕАЛІЗАЦІЇ СТРАТЕГІЇ НАЦІОНАЛЬНОЇ БЕЗПЕКИ В УКРАЇНІ (1991 – 2014)

Анотація. Мета роботи – аналіз чинного законодавства України у контексті становлення системи забезпечення її національної безпеки, виокремлення ролі правоохоронних органів у побудові стратегії національної безпеки, вивчення головних напрямів правового регулювання діяльності правоохоронних органів у цій сфері. **Методологія дослідження.** У роботі використані загальнонаукові та спеціальні методи, зокрема завдяки історико-правовому методу розкрито концептуальні засади у трактуванні поняття національної безпеки, правоохоронних органів, проаналізовано законодавство; застосовані системно-структурний та формально-логічні методи. **Наукова новизна:** проаналізовано напрями діяльності правоохоронних органів як суб'єктів системи національної безпеки України, окреслено напрями реалізації державної політики у цій сфері. **Висновки.** На основі проведеного аналізу законодавства України в період 1990 – 2014 рр. стверджено, що система національної безпеки була сукупністю суб'єктів забезпечення національної безпеки, які об'єднували спільні цілі щодо інтересів держави та суспільства. Зasadничі державотворчі документи 1990-х рр. окреслювали комплекс тотожних понять, які стосувалися національної безпеки. Конкретизація загроз у сфері національної безпеки, відтак створення більш дієвих напрямів державної політики відбулося на початку 2000-х рр. та із прийняттям двох перших Стратегій національної безпеки у 2007 та 2012 р. Проте їхня надмірна декларативність, термінологічне переобтяження лише частково поліпшила практичну діяльність суб'єктів безпекової сфери.

Діяльність правоохоронних органів у цій сфері – це головно захист прав та свобод громадян, держави та суспільних інтересів від протиправних посягань, забезпечення безпеки. Стверджено, що в окреслений період діяльність правоохоронних органів у сфері національної безпеки вимагала взаємоузгодження різних галузей законодавства, прийняття спеціального законодавства. Зауважено, що такі конкретні кроки щодо вироблення нової стратегії національної безпеки із більш чітким та систематизованим нормативним забезпеченням відбулися після 2014 р.: прийнято низку новацій, які актуалізують системний розвиток сектору безпеки і оборони до яких також відносять і правоохоронні та розвідувальні органи.

Ключові слова: правоохоронні органи, національна безпека, Міністерство внутрішніх справ, Служба безпеки України, суб'єкти забезпечення національної безпеки.

Problem Statement. Law enforcement agencies are an important state body that implements the state's policy in the field of national security and defense. In Ukrainian legal science, discussions are ongoing regarding the definition of law enforcement agencies. A researcher Vitaliy Makarchuk, having analyzed the studies by Ukrainian scholars and current legislation on this issue, identifies the following law enforcement agencies that directly influence and are responsible for national security: "National Police of Ukraine, Prosecutor's Offices, National Anti-Corruption Bureau of Ukraine, State Bureau of Investigation, Military Law Enforcement Service of the Armed Forces of Ukraine, State Security Department of Ukraine, State Border Protection Bodies". The author noted the important role of the Security

Service of Ukraine and the Ministry of Internal Affairs of Ukraine. After all, these state bodies “directly influence the formation and implementation of state policy in the field of ensuring national security and defense of the state” (Makarchuk, 2021a, p. 21).

With the restoration of Ukraine’s independence and development of the state apparatus, the problem of formulating and understanding the interdisciplinary concept of “national security” arose, because in the USSR such a term did not function. In the party-ideological and state-administrative, legislative sphere there were used such concepts as “state security”, “international security”, “military security”. In recent decades, the application of the concept of “national security” has significantly gone beyond the boundaries of legal science and has become widely used in research on economics, ecology, public administration, etc. Gradually transforming into an applied and interdisciplinary term that is widely used in the socio-humanitarian field of knowledge (Smolianiuk, 2021, pp. 166–167).

The goals and functions of law enforcement agencies in the context of implementing national security and defense policy “do not have their own regulatory framework”. That is, each individual body that is part of the law enforcement system has its own developed legal field of activity, so it is only possible to outline a generalized characteristic of functions and features of each of the bodies (Zahumenna, 2023, p. 86). Therefore, the analysis of regulatory acts in the field of legislative support for national security has been carried out, the powers of the Internal Affairs Bodies and the Security Service of Ukraine have been considered, taking into account their significant influence on the implementation of state administration in the field of national security.

Review of Recent Publications and Research. Among a number of studies that covered various aspects of the problem of national security, the following authors should be mentioned: Volodymyr Horbulin (Horbulin, 2008; Horbulin, & Lytvynenko, 2009; Horbulin, & Kachynskiy, 2011) Hryhoriy Sytnyk (Sytnyk, Oluiko, & Vavrynychuk, 2007; Sytnyk, 2009), Volodymyr Lipkan (Lipkan, 2003; Lipkan, Lipkan, Lipkan, 2006). Research on the activities of law enforcement agencies in the context of the security system of Ukraine was studied by Vitaliy Makarchuk (Makarchuk, 2023; Makarchuk, 2021a); Myroslav Kryshtanovych (Kryshtanovych, 2013; Kryshtanovych, 2014), Ihor Zozulia (Zozulia, 2012, pp. 389-394; Zozulia, 2008), Oleksandr Bandurka (Bandurka, 2004). In the English-language historiography, research in the context of the Russo-Ukrainian war, geopolitical changes, and challenges in the European security system prevails (Raik, 2019; Kanet, 2017; Zannier, 2015; Big-Alabo, & Mac Alex-Achinulo, 2022; Kuzio, 2018), on the other hand, the issues of Ukraine’s policy in the national security sector, especially in 1990 – 2000, are researched less significantly (Wolczuk, 2002; D’Anieri, 2023). In this study, we have been guided by the methodological recommendations of Vasyl Ilnytskyi and Mykola Haliv (Ilnytskyi, & Haliv, 2022; Haliv, & Ilnytskyi, 2023).

The purpose of the study is to reveal the theoretical, legal foundations and problems of law enforcement agencies in implementing the state policy in the field of national security of Ukraine from 1991 to 2014 comprehensively.

Research Results. One of the first to use the concept of “national security” was the US President Theodore Roosevelt in a 1904 address to Congress. President T. Roosevelt used this concept to justify the expediency of annexing part of the Panama Canal (Melnychenko, & Fihel, 2021, p. 69). The term began to be used more widely after World War II, mainly during the Cold War. The confrontation between the states directly influenced America’s adoption of the National Security Act, and in the following years a new field of knowledge,

strategic studies, was formed (Makarchuk, 2021b, pp. 6–7; Krause, & Williams, 2018, p. 14). American political scholar Chao Wu notes that the concept of national security is complex and multifaceted, while its content itself has also undergone significant transformation. Primarily used to justify protection against military attack, the concept now “also includes non-military dimensions such as security from terrorism, crime minimization, economic security, energy security, environmental security, food security, and cybersecurity” (Wu, 2024, pp. 1–2).

Since 1991, Ukraine has undergone a gradual process of including the concept of “national security” in the legislative framework and implementing it in state-building processes (Smolianiuk, 2021, p. 167). One of the first documents that initiated this process was the Resolution of the Verkhovna Rada of Ukraine “On the Main Directions of Ukraine’s Foreign Policy”. The resolution outlined Ukraine’s national interests in terms of international relations and used the concept of “national security” for the first time: “strategic and geopolitical interests related to ensuring the national security of Ukraine and protecting its political independence”. The legislator also identified three main groups of national interests in the field of international relations: “strategic and geopolitical interests related to ensuring the national security of Ukraine and protecting its political independence”, economic and regional (subregional, local) interests (Postanova, 1993). A researcher V. Smolianiuk noted the importance of this document, because this resolution, although it had a foreign policy direction, outlined the issues of implementing the term national security in the regulatory and legal space (Smolianiuk, 2021, p. 167).

The regulatory and legal foundations of Ukraine’s national security strategy were laid down in the 1996 Constitution of Ukraine. The basic law outlined the main parameters of the activities of authorized authorities in the field of national security, and also laid the foundations for “current legislation on ensuring national security” (Chuiko, 2008, p. 3). Article 92, in which there are outlined the laws of Ukraine in Paragraph 17, it is noted that it defines “the foundations of national security, the organization of the Armed Forces of Ukraine, and the maintenance of public order”. Article 106, which specifies the powers of the President of Ukraine, states that he “ensures state independence, national security...” and “heads the National Security Council of Ukraine”. Article 107 of the Constitution of Ukraine outlines that the coordinating body responsible for national security and defense issues is the “National Security Council of Ukraine”. In accordance with Article 116, measures to guarantee defense capability and national security are carried out by the Cabinet of Ministers of Ukraine (Konstyutsiia Ukrainy, 1996).

The first fundamental document that defined the principles of state policy in the field of national security was “Concept (Fundamentals of State Policy) of National Security” adopted in January of 1997. This document outlined the content of national security for the first time: “National security of Ukraine as a state of protection of the vital interests of the individual, society and the state from internal and external threats is a necessary condition for the preservation and increase of spiritual and material values”. The main objects and principles are formulated: “The main objects of national security are: a citizen – his rights and freedoms; society – its spiritual and material values; the state – its constitutional order, sovereignty, territorial integrity and inviolability of borders. The main principles of ensuring national security are: priority of human rights; rule of law; priority of contractual (peaceful) means in resolving conflicts; adequacy of measures to protect national interests against real and potential threats; democratic civilian control over the military sphere, as well as other bodies in the system of ensuring national security” (Postanova, 1997).

Priority national interests, threats to national security in the most important spheres of life (political, economic, social, military, environmental, scientific and technological), information, system (subjects) of ensuring national security have also been identified. Let us consider the directions of the national security state policy of Ukraine in the military sphere in detail. The directions include the creation of effective mechanisms and comprehensive measures to counter possible aggression or military conflict, violation of the state border and territorial integrity, elimination of consequences, and “ensuring democratic civilian control over the military organization of the state” (Postanova, 1997). It should be noted that the subjects of the national security system are the Ukrainian people, the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Constitutional Court of Ukraine, the Prosecutor General of Ukraine, the National Bank of Ukraine, ministries and other executive bodies, and the Military Organization of the State (VOD). The VOD system included: “The Armed Forces of Ukraine, the Security Service of Ukraine, internal troops, bodies and units of the Ministry of Internal Affairs of Ukraine, the Border Troops of Ukraine, military units of the Ministry of Ukraine for Emergencies and for the Protection of the Population from the Consequences of the Chernobyl disaster, other military formations created in accordance with the Constitution of Ukraine, ensuring the defense of Ukraine” (Postanova, 1997).

In the following years, there was the problem of a clear understanding of the essence of the military organization, the interaction of ministries, various departments and services. In the summer of 2003, two laws were adopted: “On the Fundamentals of National Security” of June 19, 2003; “On Democratic Civilian Control over the Military Organization and Law Enforcement Bodies of the State” of June 19, 2003, which, according to the definition of a lawyer V. Smolianiuk, “reveal the essence of the VOD in a somewhat different way”. Thus, in the future there was a rather unclear interpretation of the main characteristics of the VOD. However, the main problem of the military organization, according to V. Smolianiuk, during the 1990s were the problems of establishing joint, coordinated activities of the united security forces (Smolianiuk, 2017, p. 74).

A significant stage in the development of the national security sphere of Ukraine was the adoption of the Law of Ukraine “On the Fundamentals of National Security of Ukraine” in 2003. It increased the number of spheres of ensuring national security (initially there were 11, and after amendments – 12: foreign policy, domestic policy, state security, military, state border security, economic, social, scientific and technological, humanitarian, environmental, information, civil protection). Innovative was a more precise delineation of the priorities of national interests, their threats, and key areas of activity in these areas (Smolianiuk, 2021, pp. 169–170).

The main document outlining the directions of state policy in the field of national security is the National Security Strategy of Ukraine. This document is developed by the instruction of the President of Ukraine (within 6 months from the moment of taking office), approved by the decision of the National Security and Defense Council of Ukraine and by Decree of the President of Ukraine. The National Security Strategy “Ukraine in a Changing World” was first approved by President of Ukraine Viktor Yushchenko on February 12, 2007. The main task was to create a level of national security in Ukraine that would “guarantee the progressive development of Ukraine, its competitiveness, ensuring the rights and freedoms of man and citizen, and further strengthening the international positions and authority of the Ukrainian state in the modern world”. It should be noted that in the document there are

outlined specific external challenges to Ukraine's national security: the unresolved conflict in the Republic of Moldova (Transnistrian region), the unresolved issue of delimitation of the state border of the Black and Azov Seas, the Kerch Strait and the border with the Russian Federation, the Republic of Belarus, and the Republic of Moldova, problematic issues with the temporary presence of the Russian Black Sea Fleet on the territory of Ukraine (Stratehiia natsionalnoi bezpeky Ukrainy, 2007; Spivak, 2023, pp. 1050–1051).

In 2012, the next National Security Strategy of Ukraine was approved, which was essentially an updated version of the previous document. According to Decree of the President of Ukraine “On Decision of National Security and Defense Council of Ukraine” of June 8, 2012 “On New Edition of National Security Strategy of Ukraine”, amendments were made to the National Security Strategy of Ukraine of February 12, 2007 (Shevchenko, 2021, p. 154). The general provisions of the 2012 National Security Strategy emphasize that the 2007 Strategy “did not become a guiding document for the practical activities of state authorities” due to their “focus on achieving short-term political and economic goals, neglect of the needs of the strategic development of society and state. As a result, threats to national security have increased, and Ukraine's ability to protect its national interests has weakened” (Ukaz Prezydenta Ukrainy, 2012).

However, as a lawyer Ihor Zozulia emphasizes, such a characterization is “generalized and impersonal”, because the activities of law enforcement agencies directly depend on the directions of state policy (Zozulia, 2012, p. 389). The updated National Security Strategy of 2012, among a number of areas for improving the national security system of Ukraine, identifies “strengthening the functional capacity of the security and defense sector, primarily law enforcement and intelligence agencies”. It also details the current threats to national interests and national security of Ukraine in the external space, in the internal security environment. It is noted that there is a “mismatch between the security and defense sector of Ukraine and the task of protecting national interests, which is characterized by: the inconsistency of the law enforcement system of Ukraine with the task of effectively protecting the rights, freedoms and legitimate interests of a man and citizen; the insufficient efficiency of the activities of state bodies carrying out intelligence and counterintelligence activities; the continuing deterioration of the state of the Armed Forces of Ukraine and the defense industry; the imperfection of the Unified State System of Civil Protection of the Population and Territories” (Ukaz Prezydenta Ukrainy, 2012).

The Revolution of Dignity marked, according to a researcher V. Smolianiuk, the transition to “a fundamental stage of socio-political reflection on the issues of national security” (Smolianiuk, 2017, p. 76). After Russia's annexation of the Autonomous Republic of Crimea and the start of armed aggression in Eastern Ukraine, the introduction of the ATO legal regime (Vyhivskyi, & Trembetsky, 2024, p. 150) the primary objectives of Ukraine's national security policy became the protection of Ukraine's state sovereignty and its territorial integrity (Antonov, 2017, p. 436). It is worth noting that the aggression of the Russian Federation against Ukraine in 2014 and changes in the geopolitical map of the world prompted the revision of the National Security Strategy of Ukraine, the adoption of a new, revised document that more systematically takes into account threats and outlines the priorities of the state national security policy (Antonov, 2017, p. 432). Approved on May 26, 2015 the National Security Strategy is formulated on the basis of Decree of the National Security and Defense Council of Ukraine “On the National Security Strategy of Ukraine” dated May 6, 2015. It outlines new challenges and priorities of state policy, implementation of reforms

until 2020. It was determined that the Cabinet of Ministers is responsible for carrying out a comprehensive review of the security and defense sector of Ukraine, developing reforms of the security and defense sector bodies of Ukraine, and implementing the rearmament of the Armed Forces of Ukraine and other military formations in accordance with the concept of the State Targeted Defense Program for the Development of Armaments and Military Equipment for 2016 – 2020 (Spivak, 2022, pp. 1051–1052).

Among comprehensive activities of state administration bodies in protecting national security, the leading role belongs to the internal affairs bodies. According to the Law of Ukraine “On the Police” of December 25, 1990, which lost its validity in 2015 (after the reform and creation of the National Police of Ukraine), which is the basic legislative act, the functions of this body are outlined: “The police in Ukraine is a state armed body of executive power that protects life, health, rights and freedoms of citizens, property, natural environment, and interests of society and state from unlawful encroachments”. The tasks of the relevant Ministry of Internal Affairs are disclosed in detail by the “Regulations on the Ministry of Internal Affairs of Ukraine”, approved by the order of the President of Ukraine dated October 7, 1992: “organization and coordination of the activities of internal affairs bodies to protect the rights and freedoms of citizens, the interests of society, and the state from unlawful encroachments, protection of public order and ensuring public safety; ensuring the prevention of crimes, their cessation, disclosure and investigation; organization of work related to ensuring road safety and fire safety, organization of the activities of internal affairs bodies and internal troops to fulfill the tasks assigned to them, etc.” (Zakon Ukrainy, 1990: Rozporiadzhennia Prezydenta Ukrainy, 1992; Horbulin, & Kachynskyi, 2009, pp. 176–177).

The activities of law enforcement agencies in the field of ensuring national security have a dual characteristic. Internal affairs agencies carry out multifaceted activities to counter threats to national security, and national interests essentially become the object of their protection, although the internal affairs agencies are not special agencies that are called upon to directly guarantee state security (such as the SBU) (Kryshtanovych, 2013, p. 145). The sphere of activity of the Ministry of Internal Affairs in the context of ensuring national security is multifaceted, as it combines various types of public relations, in particular in the sphere of economic, financial, housing and communal services, social and other activities (Kryshtanovych, 2014, p. 168). Thus, as a researcher M. Kryshtafovych aptly noted, “the main content of regulatory legal acts that regulate the activities of the Ministry of Internal Affairs in the context of national security are norms that regulate social relations in various branches of law”, and this, in turn, led to the emergence of “legal norms” that related to individual aspects of national security. Therefore, it was important to establish various branches of legislation, or to develop a comprehensive system of regulatory and legal support for national security (Kryshtanovych, 2014, p. 169).

With the declaration of independence of Ukraine, the issue of reforming the former system of state security bodies became relevant. After the liquidation of the Committee for State Security of the Ukrainian SSR on September 20, 1991, the Security Service of Ukraine was established, and the formation of this body was legally established on March 25, 1992. The legislator interprets the Security Service of Ukraine as a “state law enforcement body ensuring state security”, which is responsible for protecting state sovereignty, constitutional order, territorial integrity and economic potential of Ukraine. It fights intelligence and subversive activities, organized crime, etc. (Myrhorod, 2024, p. 223). The SBU underwent a significant transformation during the period of 1991 – 2007, its structural units were reorganized, in particular, it included state protection bodies for senior officials (until 1998;

the State Protection Department of Ukraine was formed on their basis); bodies and units of foreign intelligence with military units of radio-electronic intelligence (until 2005), they were reformatted into the Foreign Intelligence Service of Ukraine; and until 2007, they included bodies and units of special telecommunications systems and information protection with subordinate government communications troops (on their basis, the State Service for Special Communications and Information Protection of Ukraine was organized) (Anufriiev, & Kopotun, 2022, pp. 3–4). However, one of the most significant challenges for Ukrainian statehood, and therefore for the SBU employees, was the events of 2014 in the context of the Russian Federation's armed aggression against Ukraine. The Russian invasion, due to its coordinated actions, good preparation, and a number of other reasons, met with little resistance by law enforcement and government bodies. In the ATO zone, the Center for Special Operations to Combat Terrorism, the Center for Special Operations "A" of the SBU conducted a number of complex operations to detect and stop terrorist attacks and actions that threatened national security (Anufriiev, & Kopotun, 2022, p. 5).

Conclusions. Since the restoration of independence, Ukraine has begun the process of forming a regulatory and legal framework for national security policy. The first document that defined the principles of state policy in the field of national security was the "Concept (Fundamentals of State Policy) of National Security" of 1997. A new stage in the development of the national security sphere of Ukraine was marked by the adoption of the Law of Ukraine "On the Fundamentals of National Security of Ukraine" in 2003. The importance of this law, among other things, lies in the fact that it first outlined the regulatory and legal regulation of the activities of law enforcement agencies in the field of ensuring national security. This law became the basis for the National Security Strategies of Ukraine in 2007 and 2012. However, despite these steps, the lack of specific organizational and legal principles for the functioning of law enforcement agencies to ensure national security remained a significant problem. Therefore, against the background of growing foreign policy threats from the Russian Federation after 2014 and in the context of reforming the state apparatus, transformations also took place in the security sphere of the Ukrainian state.

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