

LAW ENFORCEMENT BODIES OF UKRAINE

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Annotation. Based on the analysis of legal acts and different opinions of domestic legal scholars, who in their works investigated the issues of the system of law enforcement agencies of the state, determined the prospects for improving the activities of law enforcement agencies, it was established that law enforcement agencies of Ukraine occupy a central place in protecting the rights and freedoms of citizens, ensuring public security and law and order, protection and protection of the state border, protection of the interests of society and the state, and, if necessary, measures of state coercion are applied. Attention is drawn to certain debatable points related to the assignment of this or that state body to the system of law enforcement agencies. The problematic issue is that the law enforcement function, which is used in a broad sense, is used not only for law enforcement agencies, but also for other executive authorities. It was emphasized that one of the problematic issues that researchers pay attention to is the absence of a legislative definition of the system of law enforcement agencies of Ukraine, which leads to numerous scientific discussions, as a result of which some scientists refer to the system of law enforcement agencies as state agencies whose main task is performance of other tasks of the state, at the same time they perform only separate law enforcement works, scientists have proven that in the majority of administrative scientists operate with legislative acts, in which the legislator, based on the specifics of the law enforcement body, indicates that one or another state body is law enforcement body, at the same time there are opposing opinions. It was concluded that until the legislator resolves the issue of defining the system of law enforcement agencies of Ukraine, the aforementioned will affect the ability to properly ensure the rights and freedoms of citizens guaranteed by the Constitution and laws of Ukraine. In order to determine the system of law enforcement agencies of the state, it is necessary to resolve this issue at the legislative level. Specific proposals for improving the activities of law enforcement agencies are offered.

Key words: concepts, legislation, law enforcement agencies, protection of rights, state, security, law and order.

1. Introduction.

The absence of a legislative definition of the system of law enforcement agencies of Ukraine leads to numerous discussions, as a result of which scientists refer to law enforcement agencies as well as other state agencies, which, based on the specifics of their activities, perform only separate law enforcement functions. It is appropriate to define the system of law enforcement agencies of the state at the legislative level.

2. Analysis of scientific publications.

The issue of defining the system and activities of law enforcement agencies of Ukraine, determining ways to improve them were the subject of research by a wide range of scientists, among whom it is worth noting such legal scholars as V. Hrytsenko, Yu. Holodnyk, Yu. Drozd, A. Kulish, M. Kovaliv, A. Rusetskyi, R. Savchuk, O. Svitlichnyi, Ya. Tatsii and many others, however, the absence of a legislative definition of the system of law enforcement agencies of Ukraine causes constant interest in this issue.

3. The aim of the work.

The purpose of the work is to analyze the current domestic legislation and scientific opinions regarding the definition of the system of law enforcement agencies of Ukraine.

4. Review and discussion.

In a state governed by the rule of law, legal protection is the task of the entire society, not only the state, but the core of the entire law enforcement system of society is precisely the specialized state system of legal protection that functions relatively independently, which creates conditions for its separation from public structures and, as a result, a change in priorities in the organization of law enforcement activities. As a result, there is a need to create a system of guarantees and restrictions on forms of law enforcement by state services. Functionally and substantively separated, but closely interconnected, the activity of law enforcement agencies forms the system of law enforcement activity of the state, which, in turn, is only one form of the system of state activity. Law enforcement activity is inextricably linked with the realization of the interests of those members of the social community, for whom it does not matter for what purpose law enforcement activity is organized and carried out: it is aimed at supporting their social condition and stimulating their civic activity and lawful behavior, or it is deployed only in the interests of positive law and mainly protects the interests of state power. Law enforcement activity is specific in the structure of state power, it combines features of civil and military public service, but at the same time, while maintaining its independence, it is in close contact with them, defining its tasks and functions in accordance with its specific model [1, p. 18]. The functioning of Ukrainian society in a qualitatively new state takes place under constant economic and socio-political changes, which implies the need to ensure the protection of public order, personal safety of citizens, all forms of property and vital interests of society and the state. That is why the place of law enforcement agencies in Ukraine is determined by their functional orientation, namely: to protect the rights and freedoms of man and citizen, proclaimed by the Constitution of Ukraine, laws of Ukraine and international treaties of Ukraine; to prevent violations of the rights and freedoms of a person and a citizen and to promote their restoration; to carry out operational and service activities in accordance with the Constitution of Ukraine, legislation, international standards in this field; for the improvement and further development of international cooperation in the field of protection of human and citizen rights and freedoms; to ensure the equality of all before the law and to prevent any form of discrimination in the exercise of human rights and freedoms; to promote legal awareness of the population and protect confidential information about a person [2, p. 135–136].

In addition, it is worth adding that in today's conditions, law enforcement agencies take an active part in repelling Russian military aggression. Scientists also note that in modern Ukraine more than thirty bodies are empowered to perform law enforcement functions. In accordance with existing scientific developments, this type of state activity has a number of significant features. First, law enforcement activity has an authoritative nature, which consists in the protection of certain social relations by authorized bodies. This is a certain type of activity that is carried out on behalf of and on behalf of the state, relevant (authorized) bodies and officials, their prescriptions are binding for the addressees. In order to stop illegal activities, law enforcement agencies use coercion as a preventive measure within their powers. Secondly, law enforcement activities have a law enforcement nature of the decisions made. Its peculiarity is not in the establishment of new legal norms, but in the application of existing norms. Actions and results of actions of subjects of law enforcement activity are directed not at themselves, but at other subjects, creating, changing, protecting, confirming or terminating the rights and obligations of the latter. Thirdly, law enforcement activities are not carried out in any way, but only with the use of legal measures of influence on offenders. It is customary to refer to them measures of state coercion and collection, regulated by law [3, pp. 14–15].

The above indicates that in the absence of a legislative definition of the system of law enforcement agencies, there are numerous opinions among scientists regarding the classification of one or another state body as a law enforcement agency. In this regard, academician V. Tatsii noted that «the concept

of» «law enforcement agencies» is one of the most undefined in Ukrainian jurisprudence, internally contradictory and excessive in scope». He believed that, in general, law enforcement agencies include almost all state bodies that permanently or temporarily perform law enforcement functions or engage in law enforcement activities. Depending on the specific content of such activities, some scientists currently count up to 80 bodies that can be considered law enforcement in our country. In the scientific literature, we find different definitions and interpretations of the concept of «law enforcement agencies» and the related terms «law enforcement activity», «law enforcement functions». As a result of the broad interpretation of the law enforcement function, law enforcement bodies include almost all executive power bodies that to one degree or another are engaged in the performance of law enforcement functions, i.e. law enforcement activities in one way or another [4, p. 3–4].

As we can see, among scientists there is no clear idea of which state bodies should be considered law enforcement. At the same time, as O. Kobzar points out, the sphere of activity of law enforcement agencies has a complex and multifaceted structure. It includes certain groups of social relations that are related to the protection of the individual and the state from criminal and other illegal encroachments, ensuring public order and public safety, protecting objects regardless of the forms of ownership, uncovering and investigating crimes, ensuring compliance with the rules of stay foreigners and stateless persons in Ukraine, etc. Although these types of social relations are interconnected, they are not identical and are characterized by specific features and characteristics. This, in turn, determines the differences in the main areas of activity of law enforcement agencies (administrative, investigative, criminal procedural, execution of punishments) and in the types of components of the system of law enforcement agencies. The human rights orientation of most functions of law enforcement bodies is determined by the priority of security tasks [2, p. 136].

O. Svitlichnyi and Yu. Holodnyk, conducting a study of scientific positions on the improvement of the system of law enforcement agencies, their reformation, evaluation criteria, etc., note that scientists are concerned about the existing state of law enforcement agencies, emphasizing the need to build such a model of the law enforcement agency system that would be able to ensure the rights and freedoms of man and citizen guaranteed by the Constitution and laws of Ukraine, as well as by a number of international acts, to effectively fulfill the tasks assigned by the legislator to law enforcement agencies. In connection with military operations on the territory of our country, the introduction of martial law, the activities of law enforcement agencies have undergone significant changes, however, when this war will end, the martial law regime will cease to operate, new challenges will be faced by law enforcement agencies in post-war development of our country [5, p. 565].

In order to find out which state bodies should be considered law enforcement, we will analyze the relevant legislative acts.

Law of Ukraine «On the National Guard of Ukraine» dated March 13. No. 876-VII of 2014, indicates that the National Guard of Ukraine is a military formation with law enforcement functions, which is part of the system of the Ministry of Internal Affairs of Ukraine and is assigned to perform tasks of protection and protection of life, rights, freedoms and legitimate interests of citizens, society and of the state from criminal and other illegal encroachments, protection of public safety and order and provision of public security, as well as in cooperation with law enforcement agencies – to ensure state security and protection of the state border, stop terrorist activities, activities of illegal paramilitary or armed formations (groups), terrorist organizations, organized groups and criminal organizations.

Law of Ukraine «On the National Police» dated July 2, 2015 No. 580-VIII. The National Police of Ukraine (police) is a central executive body that serves society by ensuring the protection of human rights and freedoms, countering crime, and maintaining public safety and order. The tasks of the police are to provide police services in the following areas: ensuring public safety and order; protection of human rights and freedoms, as well as the interests of society and the state; combating crime; providing assistance services to persons who, for personal, economic, social reasons or as a result of emergency situations, need such assistance within the limits defined by law.

Law of Ukraine «On the State Bureau of Investigation» dated November 12, 2015 No. 794-VIII. The State Bureau of Investigation is a state law enforcement agency tasked with the prevention, detection, termination, disclosure and investigation of criminal offenses within its jurisdiction.

Law of Ukraine «On the State Border Service of Ukraine» dated April 3, 2003 No. 661-IV. The State Border Service of Ukraine is a special purpose law enforcement body and has the following general structure: the central body of executive power, which implements state policy in the sphere of state border protection; territorial bodies of the central executive body implementing state policy in the sphere of state border protection; Maritime security, which consists of maritime security units; bodies of state border protection – border detachments, individual checkpoints, aviation units; the intelligence body of the central executive body that implements state policy in the sphere of state border protection.

Law of Ukraine «On the Security Service of Ukraine» dated March 25, 1992 No. 2229-XII. The Security Service of Ukraine is a special purpose state body with law enforcement functions that ensures the state security of Ukraine.

Law of Ukraine «On State Protection of Ukrainian State Authorities and Officials» dated March 4, 1998 No. 160/98-VR. The Department of State Security of Ukraine is a state law enforcement body of special purpose, subordinate to the President of Ukraine and under the control of the Verkhovna Rada of Ukraine.

Law of Ukraine «On the State Criminal Enforcement Service of Ukraine» dated June 23, 2005 No. 2713-IV. The State Criminal Enforcement Service of Ukraine, in accordance with the law, carries out law enforcement and law enforcement functions and consists of a central body of executive power that implements state policy in the field of execution of criminal punishments, its territorial management bodies, criminal enforcement inspection, institutions for the execution of punishments, pretrial detention centers, paramilitary formations, educational institutions, health care institutions, enterprises of penal institutions, other enterprises, institutions and organizations created to ensure the fulfillment of tasks of the State Criminal Enforcement Service of Ukraine.

Law of Ukraine «On the Military Service of Law and Order in the Armed Forces of Ukraine» dated 07.03. 2002 No. 3099-III. The Military Law and Order Service of the Armed Forces of Ukraine is a special law enforcement formation within the Armed Forces of Ukraine, designed to ensure law and order and military discipline among servicemen of the Armed Forces of Ukraine in places of deployment of military units, in military educational institutions, institutions and organizations, military towns, on the streets and in public places; to prevent criminal and other offenses in the Armed Forces of Ukraine, their termination; to protect the life, health, rights and legitimate interests of servicemen, conscripts during their training, employees of the Armed Forces of Ukraine, as well as to protect the property of the Armed Forces of Ukraine from theft and other illegal encroachments, as well as to participate in countermeasures acts of sabotage and terrorist acts at military facilities.

Law of Ukraine «On the Bureau of Economic Security of Ukraine» dated January 28. 2021 No. 1150-IX. The Bureau of Economic Security of Ukraine is the central body of the executive power, which is entrusted with the tasks of combating offenses that interfere with the functioning of the economy of states.

Therefore, the above indicates that the state bodies defined in these legislative acts are law enforcement agencies. That is, based on the specifics of the activity, the legislator classifies the bodies and their structural subdivisions specified in these legislative acts as law enforcement.

Therefore, we agree with the opinions that, firstly, the formation of an effective legal mechanism for improving the administrative and legal support for the activities of law enforcement agencies of Ukraine, which should include the improvement of the regulatory and legal framework, which requires the adoption of a special law that would define the system of law enforcement agencies and regulate their law enforcement activity [5, p. 566], and secondly, in order to avoid confusion and uncertainty, it is necessary to enshrine in the legislative acts, which define the tasks, functions and powers of individual law enforcement agencies, the fact that they are law enforcement, as is done, for example, in the text of the Laws of Ukraine «On the Service security of Ukraine», «On the state border service of Ukraine» and others [6, p. 28].

5. Conclusions.

Thus, the conducted research of scientific opinions and separate legislative acts that regulate the activities of law enforcement agencies of Ukraine indicates that today there is no clear legislative definition of the concept of «law enforcement agency», which leads to the wide use in scientific circles of various approaches to classifying whether another state body to law enforcement. In order to eliminate the existing shortcomings, it is necessary to fix the definition of the concept of «law enforcement agency» and the system of law enforcement agencies of Ukraine at the legislative level.

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