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IMPLEMENTATION OF STATE POLICY IN THE FIELD OF ECONOMIC SECURITY OF THE STATE: ADMINISTRATIVE AND LEGAL ASPECT

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Abstract:

The purpose of the research determined are the meaning of “administrative and legal regulation” and its components. The main content. The main purpose of administrative and legal regulation of economic security of the state is to ensure implementation and protection of economic rights, freedoms and legitimate interests of individuals and legal entities. Methodology. Review of materials and methods on the basis of analysis of documentary materials for regulation of economic security of the state. Conclusions. In its essence, the administrative and legal regulation of economic security should be considered in two aspects: 1) as a set of administrative and legal norms regulating administrative public relations in the sphere of economic security; 2) as a systemic organizing influence of specially authorized state bodies on economic and social relations through administrative and legal norms and other legal means, primarily of an administrative nature, with the purpose of their protection, improvement and creation of

appropriate conditions for further development in the context of ensuring national security of Ukraine.

Keywords: security, economic security, legal regulation, administrative and legal regulation.

1. INTRODUCTION

Importance of economic security of the state for its development and existence in the modern world is difficult to be overestimated. A sustainable economy (able to meet the needs of the population and create conditions for realization of basic human rights and freedoms enshrined in the Constitution of Ukraine) is a kind of an “engine” of development in any country, which increases its international and regional prestige and guarantees protection from internal threats of socio-political, economic and military nature. At the same time, it should be noted that economic relations, being the basis of economic security, require proper regulation, as well as clear and coordinated activities of authorized public authorities, which can improve and develop such public relations by means of exercising their powers.

The above mentioned activity of the authorized state authorities responsible for formation and realization of state policy in the sphere of economy mostly lies in the administrative and legal sphere, as it is closely related to public administration and implementation of governmental and administrative powers aimed at stability and predictability of economic relations. Despite existence of objective economic laws, the state is that very institution responsible for the proper regulation of social relations in the economic sphere, their monitoring and adjustment, which leads to the application of certain legal norms, forms and methods of management which have administrative and legal nature. Based on the proposed theses, we can conclude that the scientific study of the problems of administrative and legal regulation of economic security of the state becomes relevant and timely in modern conditions of development of the state and national legal science.

2. LITERATURE REVIEW

The issue of administrative and legal regulation cannot be considered completely without detailed analysis of contents of such general category as “legal regulation” and its components. In this regard, it should be noted that this term has been the subject of research by many scholars in various fields of law: theories of state and law, constitutional law,

administrative and civil law, etc. In the most general form, legal regulation can be defined as regulation of social relations through the rules of law and other legal means³²¹; impact of law on public relations through legal means: norms of law, legal relations, acts of law realization³²². According to A.T. Komzyuk, legal regulation is a specific influence exerted by law as a special normative institutional regulator. At the same time, legal regulation has a purposeful, organizational, effective nature and it is carried out with the help of an integral system of tools that really express the very matter of law as a normative institution of formation - the regulator³²³.

I.M. Shopina studied the concept of legal regulation from several positions, and namely: in the instrumental aspect, legal regulation is a part (element) of the state's legal influence on public relations through specific legal means (norms of law, legal relations, acts of law enforcement) in order to streamline, consolidate, protect and develop public relations; in the activity-oriented (pragmatic) aspect, legal regulation is the activity of the state, its bodies (authorities) and officials, as well as authorized public organizations aimed at establishing binding legal norms (rules) of conduct for subjects of the right, implementing these norms in specific relations and applying state coercion to offenders in order to achieve a stable law and order in the society³²⁴.

V.I. Teremetsky performed his researches in the context of the activity-based (pragmatic) approach. In his opinion, legal regulation covers 1) specific activities of the state (its rule-making bodies), related to development of legal guidelines and determination of legal means for ensuring their effectiveness; 2) activities of direct participants in public relations, aimed at finding and attracting means of legal regulation to coordinate their behavior with the law (its principles, ideas, purposes)³²⁵. R.Y. Demkiv, like previous scholars, emphasizes that legal regulation as a legal phenomenon (normative-legal regulation) is a system of actions and

³²¹ **CHERDANTSEV Alexander Fyodorovich. 1993. Logical-linguistic phenomena in law, jurisprudence and practice. Ekaterinburg: Science. 189 p.**

³²² **BOBYLEV Alexander Ivanovich. 2002. Theoretical problems of legal regulation. Law and politics. № 8.**

³²³ **KOMZYUK Anatoliy Trokhimovich Measures of administrative coercion in law enforcement activities of the police: concepts, types and organizational and legal issues of implementation: a monograph / for general. ed. OHM. Bandurki. Kharkiv: Nat. un-tu vnutr. Sprav, 2002. 336 p**

³²⁴ **SHOPINA Irina. 2011. On conceptual approaches to defining the concept of legal regulation. Law Forum. № 2.**

³²⁵ **TEREMETSKY Vladislav Ivanovich. 2012. Tax relations in Ukraine: a monograph. Kharkiv: Disa Plus. 648 p.**

operations carried out by public authorities in established procedural forms with the help of certain methods and legal means aimed at establishing and implementing certain models of social development³²⁶.

Approaches to the components of legal regulation also vary in scientific works. In particular, there are two main approaches: the broad one and the narrow one. According to the first approach legal regulation includes all forms of state influence on the behavior of public relations (law, acts of law, legal agreements, ensuring implementation of law, including by means coercion, legitimacy and order). In turn, the narrow approach says that legal regulation cannot be understood as all forms and means used by the state for regulation of public relations³²⁷.

At the same time, it should be noted that today the problem of administrative and legal regulation of state economic security is beyond the scope of systematic scientific study, and therefore there is a need to update this issue and its coverage in the specialized literature.

3. THEORETICAL PRINCIPLES OF IMPLEMENTATION OF STATE POLICY IN THE FIELD OF ECONOMIC SECURITY OF THE STATE.

O.I. Bezpalova, notes that two separate components can be separated in the mechanism of legal regulation of police authorities. They are the static component and the dynamic component. The static component includes legal norms that regulate the specifics of police management. Other elements of the legal mechanism of police management (institutional component, principles, forms and methods, legal relations and resource component) are a dynamic component. Legal support (i.e. the static component) is an integral part of the police management mechanism³²⁸.

Based on the above mentioned positions, we will try to define the specifics of the term “administrative and legal regulation”. There is no doubt that this concept is related to the

³²⁶ DEMKIV Roman. 2015. Legal regulation as a legal phenomenon: some aspects of understanding. Scientific Bulletin of Uzhhorod National University. Series: Right. Vip. 34 (1). Pp. 19-23.

³²⁷ DEMKIV Roman. 2015. Legal regulation as a legal phenomenon: some aspects of understanding. Scientific Bulletin of Uzhhorod National University. Series: Right. Vip. 34 (1). Pp. 19-23.

³²⁸ BEZPALOVA Olga. 2017. Legal support of the management of the police of Ukraine. Administrative law and process. № 9 (259). Pp. 111-115.

sphere of social relations, which are included in the subject of administrative law. If we analyze the scientific position of such well-known scientists-administrators, as R.S. Melnyk, we can conclude that since administrative law regulates public relations that arise in connection with the public administration's assuring human and civil rights and freedoms, it is characterized by certain limits of legal regulation - the sphere of activity of executive and administrative bodies and public relations of managerial nature, which are formed in this sphere³²⁹.

Therefore, if we talk about the sphere of economic security and economic relations that form its basis, it should be noted in advance that it is economic relations of an administrative nature should belong to the object of administrative and legal regulation. The comparative analysis of scientific works on the problems of administrative and legal regulation of various spheres of social and political life shows the following results:

- in the sphere of environmental security of the state the object of administrative and legal regulation is in particular presented as public relations in the form of behavior and actions of people which take place in connection with the fact that public authorities, primarily public administration, provide environmental rights and freedoms of humans and citizens as well as interests of the society and the state in this area³³⁰;
- administrative and legal regulation of the judicial branch of power is presented as purposeful influence of the norms of constitutional and administrative law on public relations in this sphere;
- Electoral relations, as an object of administrative and legal regulation, characterize a special type of social relations that are regulated by the purposeful influence of administrative and legal norms³³¹;
- Oil and gas complex as an object of administrative and legal regulation is a system of public relations in this area, regulated by the rules of administrative law;

³²⁹ MELNYK Roman. 2014. General administrative law: a textbook. Kyiv: Waite.

³³⁰ YEMETS Leonid. 2019. Administrative and legal principles of management in the field of environmental security of the state: dis. ... Dr. Jurid. Science: 12.00.07; Kharkiv National University of Internal Affairs. Kharkiv, 2019. 544 p.

³³¹ OLIYNYK Oksana. 2017. The concept of electoral relations as an object of administrative and legal regulation. Law and society. № 3. pp. 153-158

- Administrative and legal regulation of land relations is aimed at ensuring implementation and protection of rights, freedoms and legitimate interests of the state, individuals and legal entities regarding the possibility of possession, use and disposal of land³³².

Based on the above legal positions, we can conclude that the administrative and legal regulation of economic security can be formulated as a complex concept that includes two components:

- a set of administrative and legal norms governing administrative social relations which are formed concerning production, distribution, exchange and consumption of material goods and services, ensuring security and stability of economic system to external and internal threats and which guarantee protection of national economic interests socio-economic rights and freedoms of citizens, as well as create conditions for further development and growth of the national economy and ensure competitiveness of the state in the global economic environment;
- a systemic organizing influence of specially authorized state bodies on economic and social relations through administrative and legal norms and other legal means, primarily of an administrative nature, with the purpose of their protection, improvement and creation of appropriate conditions for further development in the context of ensuring national security of Ukraine³³³.

The definition we have formulated makes it possible to confidently declare that Ukraine's economic security is a full-valued object of administrative and legal regulation on the following grounds:

- 1) Social relations formed in the sphere of economy are the subject of practical activity of the executive bodies authorized for realization of tasks and functions of the state in various spheres of public life, in particular in the sphere of national security;

³³² **LEHEZA, Yevhen. SAVIELIEVA, Maryna. DZHAFAROVA, Olena. 2018. Structural and legal analysis of scientific activity regulation in developed countries. In: Baltic journal of economic studies. Vol. 4, No. 3, pp. 147-157. DOI: <https://doi.org/10.30525/2256-0742/2018-4-3-147-157>**

³³³ **LEHEZA, Yevhen. TIUTCHENKO, Svitlana, STANINA, Olha, SHATRAVA, Serhii, REZANOV Serhii. 2021. Uso y protección del suelo: regulación legal y experiencia extranjera. Revista De La Universidad Del Zulia, 12(33), 70-81. DOI: <https://doi.org/10.46925/rdluz.33.06>**

2) A specially authorized body of the state, which has an object competence and a territorial competence defined by the law, is one of the parties of public relations in the sphere of economic security as an object of administrative and legal regulation. As stated in the normative acts of our country, the main components of economic security include financial security, macroeconomic security, industrial security, energy security, foreign economic security, investment and innovative security. The components of financial security include: banking security, security of the non-banking financial sector, debt security, budget security, currency security, monetary security³³⁴.

According to the relevant directions of the state activity, the following central executive bodies operate: The Ministry of Economic Development, the Trade and Agriculture of Ukraine, the Ministry of Energy and Environmental Protection of Ukraine, the Ministry of Finance of Ukraine, the State Treasury Service of Ukraine, the State Financial Monitoring Service of Ukraine, the State Export Control Service of Ukraine, the State Agency for Energy Efficiency and Energy Saving of Ukraine, the State Energy Supervision Inspectorate of Ukraine, the National Commission on Securities and Stock Market, the National Commission for State Regulation of Financial Services Markets, etc. In addition, given that economic security is an integral part of national security, the National Security and Defense Council of Ukraine plays an important role in ensuring it as a coordinating body for national security and defense;

3) A specific feature of public relations in the sphere of economic security as an object of administrative and legal regulation is that the above executive authorities and other authorized entities have the right to demand certain behavior from relevant participants in certain relations by means of establishing administrative and legal norms. For example, the Ministry of Energy and Environmental Protection develops and approves safety regulations for electricity supply and monitors safety of electricity and natural gas supply, in particular it monitors balance of demand and supply of natural gas in Ukraine; sectoral technical regulations and regulatory characteristics of the technological costs of electric energy. The Ministry of Finance of Ukraine

³³⁴ **LEHEZA, Yevhen. FILIPENKO, Tatiana. SOKOLENKO, Olha. DARAHAN, Valerii, KUCHERENKO, Oleksii. 2020. Ensuring human rights in Ukraine: problematic issues and ways of their solution in the social and legal sphere. Cuestiones políticas. Vol. 37 №º 64 (enero-junio 2020). P. 123-136. DOI: <https://doi.org/10.46398/cuestpol.3764.10>**

provides fiscal risk management, it prepares the Budget Declaration together with the main managers of the state budget, it develops instructions on preparing proposals for the Budget Declaration and indicative limits of state budget expenditures and communicates them to the main managers of the state budget³³⁵. The National Security and Defense Council of Ukraine makes decisions on: determination of strategic national interests of Ukraine, conceptual approaches and directions of ensuring national security and defense in the economic sphere; draft state programs, doctrines, laws of Ukraine, decrees of the President of Ukraine, international treaties, other regulations and documents on national security and defense; measures of political, economic, social and other nature in accordance with the scale of potential and real threats to the national interests of Ukraine;

4) Relations in the sphere of economic security may arise on the initiative of the authorized entity, in particular on the initiative of the Cabinet of Ministers of Ukraine, the central executive body, other authorized officials, while the consent of the other party involved is not required for their occurrence, in contrast to civil law relations;

5) Administrative sanctions (penalties) have been established for illegal actions in the sphere of economic security. These penalties are regulated by the Code of Administrative Offenses and other regulations, which include administrative and economic sanctions³³⁶.

4. ORGANIZATIONAL PRINCIPLES OF IMPLEMENTATION OF STATE POLICY IN THE FIELD OF ECONOMIC SECURITY OF THE STATE

According to Article 238 of the Commercial Code of Ukraine, administrative and economic sanctions (i.e. measures of organizational, legal or proprietary nature aimed at stopping offenses performed by a business entity and elimination of their consequences) may be applied to business entities for violation of the rules of economic activity established

³³⁵ LEHEZA, Yevhen, DOROKHINA, Yuliia. SHAMARA, Oleksandr. MIROSHNYCHENKO, Serhii. MOROZ, Vita. 2021. Citizens 'participation in the fight against criminal offences: political and legal aspects. *Cuestiones Políticas*, 39(69), 212-224. DOI: <https://doi.org/10.46398/cuestpol.3969.12>

³³⁶ LEHEZA, Yevhen. ODYNTSOVA, Iryna. DMYTRENKO, Natalia. 2021. Teoría y regulación legal del apoyo informativo de los procedimientos administrativos en Ucrania. *Ratio Juris UNAULA*, 16 (32). P. 291-306. DOI: <https://doi.org/10.24142/raju.v16n32a12>

through legislative acts³³⁷.

The state (public) authorities and local self-government bodies, in accordance with their powers and in accordance with the procedure established by the law, may apply to business entities the following administrative and economic sanctions: withdrawal of profit (income), administrative and economic fine, collection of fees (mandatory payments), revocation of license (patent) for performance of certain economic activities, restriction or suspension of the business entity's activities, liquidation of the business entity³³⁸.

In addition, in accordance with the provisions of the Budget Code of Ukraine (Article 117), the following measures of influence may be applied to the participants of the budget process for violation of the budget legislation:

- warning about improper implementation of budget legislation with the requirement to eliminate violations of budget legislation - such warnings are used in all cases of violated budget legislation;
 - suspension of operations with budget funds - it is applied for violation of budget legislation in accordance with the procedure established by Article 120 of the Budget Code;
 - suspension of budget allocations - it is used for violations of budget legislation, defined by Article 116 of the Budget Code.
 - reduction of budget allocations - it is applied for violation of budget legislation, defined by Article 116 of the Budget Code³³⁹;
- 6) For the violations described above in the economic sphere, the guilty party is liable to the state and not to the other party, as it is in case with civil and legal relations;
- 7) In case of disputes between relevant subjects of economic security relations these disputes can be resolved both administratively and in court. In particular, according to Article

³³⁷ LEHEZA, Yevhen. ODYNTSOVA, Iryna. DMYTRENKO, Natalia. 2021. Teoría y regulación legal del apoyo informativo de los procedimientos administrativos en Ucrania. Ratio Juris UNAULA, 16 (32). P. 291-306. DOI: <https://doi.org/10.24142/raju.v16n32a12>

³³⁸ LAW OF UKRAINE. 2003. Economic Code of Ukraine: Law of Ukraine of 16.01.2003 № 436-M.

³³⁹ LAW OF UKRAINE. 2010. Budget Code of Ukraine: Law of Ukraine of 08.07.2010 № 2456-71.

214 of the Budget Code of Ukraine, the decision to apply a measure of influence for violation of budget legislation may be appealed to the issuing authority or in court within 10 days of its issuance, unless otherwise provided by the law³⁴⁰.

The Commercial Code of Ukraine states that a business entity has the right to appeal to a court against a decision of any public authority or any local government body to impose administrative and economic sanctions on it. If a public authority or a local government body adopts an act that does not comply with the law and violates the rights or legitimate interests of a business entity, the latter has the right to appeal to the court to declare such an act invalid³⁴¹.

At the same time, according to Article 5 of the Code of Administrative Proceedings of Ukraine each person has the right to appeal to the administrative court if he/she considers that a certain decision, action or inaction of a subject of power has violated its rights, freedoms or legitimate interests and he/she has the right to ask for protection of his/her rights by means of: recognition of the respective normative legal act or its separate provisions illegal and invalid; recognition of the respective act or its separate provisions unlawful and their cancellation; recognition of the respective actions performed by the subject of power unlawful and the obligation to refrain from these certain actions; establishing the presence or absence of competence (authority) of the subject of power³⁴².

CONCLUSION

The conducted research gives an opportunity to formulate the following conclusions and generalizations:

1. Economic security is an integral part of national security of Ukraine, which presents a

³⁴⁰ **LAW OF UKRAINE. 2010. Budget Code of Ukraine: Law of Ukraine of 08.07.2010 № 2456-71.**

³⁴¹ **LAW OF UKRAINE. 2003. Economic Code of Ukraine: Law of Ukraine of 16.01.2003 № 436-M.**

³⁴² **LAW OF UKRAINE. 2005. Code of Administrative Procedure of Ukraine: Law of Ukraine of 06.07.2005 № 2747-M.**

status of social relations formed concerning production, distribution, exchange and consumption of material goods and services, which characterizes their protectability (security) and resistance to external and internal threats, guarantees protection of national economic interests, promotes implementation of social and economic rights and freedoms of citizens, and in addition to that it creates conditions for further development and growth of the national economy and ensures competitiveness of the state in the world economic environment.

2. Economic security of the state as an object of administrative and legal regulation is a set of relations in the sphere of public administration concerning production, distribution, exchange and consumption of material goods and services; stable and protected status of these relations guarantees protection of national economic interests, promotes social-economic rights and freedoms of citizens and also it creates conditions for further development and growth of the national economy and ensures competitiveness of the state in the world economic environment.

3. In its essence, the administrative and legal regulation of economic security should be considered in two aspects: 1) as a set of administrative and legal norms regulating administrative public relations in the sphere of economic security; 2) as a systemic organizing influence of specially authorized state bodies on economic and social relations through administrative and legal norms and other legal means, primarily of an administrative nature, with the purpose of their protection, improvement and creation of appropriate conditions for further development in the context of ensuring national security of Ukraine.

4. The main purpose of administrative and legal regulation of economic security of the state is to ensure implementation and protection of economic rights, freedoms and legitimate interests of individuals and legal entities.

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