

The place of administrative law rules in the system of legal principles of security activities in Ukraine

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Abstract. In the article, based on the analysis of scientific views of scientists, the author's approach to the interpretation of the concept of "administrative-legal regulation" is formulated. Attention is focused on the fact that administrative-legal regulation is a type of legal regulation in the classical sense, which expresses the influence of the norms of administrative law on social-legal relations in the sphere of public administration. Such legal relations should include: 1) relations between state authorities and local self-government; 2) relations between citizens of Ukraine and authorities (local self-government) and their officials; 3) relations regarding the provision of state-public services to the population of the country; 4) relations in the field of state control and supervision, etc.

The system of normative legal acts of different legal force, which constitute the legal framework of security activities in Ukraine, is highlighted. It has been proven that in the system of legal foundations of security activities in Ukraine, the key place is given to the norms of the administrative branch of law, because it is with the help of the latter: 1) imperative prescriptions and requirements regarding the procedure for conducting security activities, the list of services covered by its content, and the status of implementation entities are established security activities; 2) the mechanisms of state regulation of security activities are defined, in particular, the licensing procedure; 3) restrictions on the issue of legal registration of security activities are established in the form of special requirements for the form and content of the contract on the provision of security services; 4) the minimum set of rights and obligations of subjects of security activity is consolidated; 5) the competence and powers of state authorities in the field of organization, provision and implementation of security activities are regulated; etc.

Key words: administrative law, rule of administrative law, security, security activity, legal regulation.

Problem statement. The development of Ukraine as a modern European state necessitates the adaptation of all spheres of public life to the requirements and standards set by the international community. One of these spheres is, of course, security, which in many developed countries has been used for many years as an important tool not only to maintain order and security in society, but also as a means of reducing the burden on the entire law enforcement sector. It should be noted that the basis for an effective, lawful and high-quality process of security activities is its legal regulation. The latter not only regulates and organizes social relations arising from the provision of security services, but also creates the necessary conditions to ensure the effective functioning of entities authorized to carry out this type of activity. In the system of legal regulation of security activities, given its essence and specificity, a special place is occupied by the rules of the administrative branch of law.

State of the research. The following scholars have considered certain problematic issues related to the regulation of security activities in their scientific works: O.P. Yevsieiev, M.V. Zavalnyi, L.I. Kalienichenko, I.A. Kostiaikov, V.I. Kurilo, M.M. Mazepa, S.S. Mazur, R.V. Myroniuk, I.L. Nevzorov, O.M. Pravotorova, Yu.M. Khmiliar, P.V. Khotenets and many others. However, despite the significant theoretical contribution, the issue of the legal basis for the implementation of the relevant activities is not sufficiently developed in the scientific literature.

Purpose and objectives of the research. The purpose of the article is to determine the place of administrative law rules in the system of legal framework for security activities in Ukraine. To achieve this goal, it is

necessary to solve the following tasks: to reveal the essence of administrative legal regulation; to establish the range and characterize the key legal acts which define the legal framework of security activities in Ukraine.

Scientific novelty of the research. The scientific novelty of the article is that it further elaborates the theoretical approach to the place of administrative law provisions in the system of legal framework for security activities in Ukraine.

Presentation of the main material. As is known, the essence of administrative-legal regulation of certain relations is determined by scholars based on the content of legal regulation [1, p. 107]. At the same time, a specific object of legal regulation is always associated with a corresponding goal, which is a separate characteristic and reveals its content. As legislative practice shows, effective legal regulation is possible only if there is a strict correspondence between the goals and objectives set during the regulation of certain relations [1, p. 109].

Like any social category, administrative-legal regulation has corresponding features that distinguish it from other types of regulation. These features include: 1) it is an action (influence) of the state on social relations arising between their subjects; 2) it is carried out through appropriate legal means, the totality of which forms the mechanism of administrative-legal regulation; 3) it aims to organize state-power relations (including in the field of taxation, for example, by clearly defining the tax payment procedure); 4) it establishes the legal rights and obligations of participants in administrative-legal relations, which are being regulated [2].

It appears that administrative-legal regulation is a type of legal regulation in the classical sense, which

expresses the impact of administrative law provisions on social and legal relations in the field of public administration. Such legal relations include: 1) relations between public authorities and local self-government bodies; 2) relations between citizens of Ukraine and public authorities (local self-government) and their officials; 3) relations regarding the provision of public services to the population of the country; 4) relations in the field of state control and supervision, etc. The respective administrative and legal influence is based on a system of regulatory legal acts of different legal force.

In this context, the first document that should be highlighted is the Constitution of Ukraine. It is worth noting that the provisions of the Basic Law do not directly regulate the legal status and procedure of security activities, but declare the principles by which the latter should be guided and the human and civil rights for which they are generally carried out. Thus, Article 3 states: "A person, his or her life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value. Human rights and freedoms and their guarantees determine the content and direction of the state's activities. The state is accountable to the individual for its activities. Affirming and ensuring human rights and freedoms is the main duty of the state." Article 19 of the Basic Law states that the legal order in Ukraine is based on the principles that no one may be forced to do anything that is not provided for by law. State authorities and local self-government bodies and their officials are obliged to act only on the basis, within the limits of their powers and in the manner provided for by the Constitution and laws of Ukraine [3].

The text of the Constitution further enshrines the fundamental rights and freedoms of man and citizen, the provision and protection of which is directly related to the provision of security services. For example, the articles of this legal act stipulate that no one may be arbitrarily deprived of life. It is the duty of the state to protect human life. Everyone has the right to protect his or her life and health, as well as the life and health of other people from unlawful attacks. No one shall be allowed to enter a person's home or other property, inspect or search them except by a reasoned court decision. In urgent cases related to saving lives and property or the direct prosecution of persons suspected of committing a crime, another procedure established by law may be used to enter a home or other property, inspect and search them [3].

After the Constitution, attention should be paid to two codified documents. One of the main tasks of security services is to prevent socially negative phenomena that take the form of administrative or criminal offenses, the qualification of which is based on the provisions of the Code of Ukraine on Administrative Offenses and the Criminal Code of Ukraine. It is these two documents that establish what exactly the relevant objects and entities should be protected against.

For example, the purpose of the Code of Ukraine on Administrative Offenses is to protect the rights and freedoms of citizens, property, the constitutional order of Ukraine, the rights and legitimate interests of enterprises,

institutions and organizations, established law and order, strengthen the rule of law, prevent offenses, educate citizens in the spirit of strict and unswerving observance of the Constitution and laws of Ukraine, respect for the rights, honor and dignity of other citizens, the rules of coexistence, the faithful performance of their duties, and responsibility to society. An administrative offense (misdemeanor) under the Code of Ukraine on Administrative Offenses is an unlawful, culpable (intentional or negligent) act or omission that infringes on public order, property, rights and freedoms of citizens, the established order of government and for which the law provides for administrative liability. Administrative liability for offenses under the Code occurs if these violations do not entail criminal liability by their nature in accordance with the law [4].

In turn, the Criminal Code of Ukraine aims to provide legal support for the protection of human and civil rights and freedoms, property, public order and public safety, the environment, and the constitutional order of Ukraine from criminal offenses, to ensure peace and security of mankind, and to prevent criminal offenses. A criminal offense is a socially dangerous culpable act (action or inaction) committed by a criminal offender as provided for by the Criminal Code of Ukraine. An act or omission that, although formally containing signs of any act provided for by the Code, does not constitute a criminal offense, but due to its insignificance does not pose a public danger, i.e. did not and could not cause significant harm to an individual or legal entity, society or the state. Criminal offenses are divided into criminal offenses and crimes. A criminal offense is an act (action or inaction) provided for by the Criminal Code of Ukraine, for which the main punishment is a fine of not more than three thousand non-taxable minimum incomes or other punishment not involving imprisonment. Crimes are divided into minor, grave and especially grave ones [5].

The central legislative act in the field of security activities is the Law of Ukraine "On Security Activities", which defines the organizational and legal principles of business activities in the field of providing security services for property and citizens. The main purpose of the Law is to create conditions for: "1) protection of property, ensuring the rights and legitimate interests of business entities and individuals; 2) ensuring state control over the implementation of measures to protect property and individuals; 3) development and improvement of the sphere of providing services for the protection of property and citizens. The Law regulates the relations of business entities in the organization and implementation of their security activities" [6]. The Law applies to the legal relations of law enforcement agencies and military formations in the process of providing property and citizen protection services to the extent that they are not regulated by legislative acts governing their activities. In addition, the law defines state legal requirements for the activities of security entities, their staffing, legalization of the provision of security services, application of coercive measures within the framework of security activities, etc. [6].

The Law of Ukraine "On Licensing of Types of

Economic Activity” regulates social relations in the field of licensing of types of economic activity, defines an exclusive list of types of economic activity subject to licensing, establishes a unified procedure for their licensing, supervision and control in the field of licensing, and liability for violation of legislation in the field of licensing of types of economic activity. According to the law, security activities are one of the types of economic activities subject to licensing [7]. In turn, the Law of Ukraine “On the Basic Principles of State Supervision (Control) in the Field of Economic Activity” of “defines the legal and organizational framework, basic principles and procedure for the implementation of state supervision (control) in the field of economic activity, the powers of state supervision (control) bodies, their officials and the rights, duties and responsibilities of business entities in the implementation of state supervision (control)” [8].

One of the subjects of security activities is the National Police of Ukraine represented by special structural units, and therefore the Law of Ukraine “On the National Police” should also be included in the system of legal frameworks under study. The document defines the legal basis for the organization and activities of the National Police of Ukraine, the status of police officers, as well as the procedure for service in the National Police of Ukraine. Its provisions declare that the National Police of Ukraine is a central executive body that serves the public by ensuring the protection of human rights and freedoms, combating crime, and maintaining public safety and order. The activity of the police is directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Internal Affairs of Ukraine in accordance with the law. The tasks of the police are to provide police services in the following areas: “1) ensuring public safety and order; 2) protection of human rights and freedoms, as well as interests of society and the state; 3) combating crime; 4) providing, within the limits determined by law, services to assist persons who for personal, economic, social reasons or as a result of emergency situations need such assistance”. In its activities, the police is guided by the rule of law, according to which a person, his/her rights and freedoms are recognized as the highest values and determine the content and direction of the state's activities [9].

The next group of legal frameworks for the security activities of the National Police of Ukraine consists of bylaws that clarify the provisions of legislative acts and define legal mechanisms and vectors for their implementation. An example is the Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Licensing Conditions for the Conduct of Security Activities”, which establishes an exhaustive list of documents to be attached to the application for a license to conduct security activities, as well as organizational, personnel and technological requirements for the licensee's material and technical base, which are mandatory for the conduct of security activities [10].

The Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Regulation on the Ministry of Internal Affairs of Ukraine” defines the functional aspects of the work and peculiarities of the legal status of one of the

subjects of security activities in Ukraine - the Ministry of Internal Affairs (hereinafter - the MIA). According to the Regulation, the MIA is a central executive body which activities are directed and coordinated by the Cabinet of Ministers of Ukraine. The MIA is the main body in the system of central bodies of executive power, which ensures the formation of state policy in the areas of: “1) ensuring the protection of human rights and freedoms, the interests of society and the state, combating crime, maintaining public safety and order, as well as providing police services; 2) protection of the state border and protection of the sovereign rights of Ukraine in its exclusive (maritime) economic zone; 3) civil protection, protection of the population and territories from emergency situations and their prevention, liquidation of emergency situations, rescue work, fire extinguishing, fire and man-made safety, activities of emergency and rescue services, as well as hydro meteorological activities; 4) migration (immigration and emigration), including combating illegal migration, citizenship, registration of individuals, refugees and other categories of migrants defined by law. In addition, the document specifies that the MIA is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy in the field of compliance with the norms of international humanitarian law throughout the territory of Ukraine” [11].

At the same time, the legal basis for security activities is not only the Government's bylaws, but also other entities authorized in this area, such as the Ministry of Internal Affairs. For example, the Order of the Ministry of Internal Affairs “On the Organization of Service Activities of the Security Police on Ensuring Physical Protection of Objects” of 07.07.2017 No. 577 defines the basic principles of service activities of bodies and units of the security police aimed at organizing and implementing measures for the physical protection of objects and property of all forms of ownership, individuals taken under protection on a contractual basis [12].

Another example is the Order “On Approval of the Procedure for Ensuring the Protection of Objects by Security Police Bodies on a Contractual Basis”, which establishes a mechanism for providing protection of objects belonging to the categories of state-owned objects and areas of state regulation that are subject to protection by security police on a contractual basis [13].

Conclusions. Therefore, the legal foundations of security activities in Ukraine accumulate regulatory and legal acts of different legal force. The provision of security services to the citizens of our country is based on the provisions of the Constitution of Ukraine, the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine, as well as other legislative and bylaw regulations. Despite this, the central place in the system of legal foundations is given to the rules of administrative law. The above is explained by the fact that the rules of this field of law: 1) establish imperative prescriptions and requirements regarding the procedure for conducting security activities, the list of services covered by its content, and the status of entities implementing security activities; 2) determine the mechanisms of state regulation of security activities, in

particular, the licensing procedure; 3) establish restrictions on the issue of legal registration of security activities in the form of special requirements for the form and content of the contract on the provision of security services; 4) consolidate the minimum set of rights and obligations of subjects of security activities; 5) regulate the competence and powers of state authorities in the field of organization, provision and implementation of security activities; etc.

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