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THE CONTENT AND SCOPE OF THE CONCEPT OF 'ENTITY ENSURING ADMINISTRATIVE AND LEGAL SUPPORT OF LAW AND ORDER'

Abstract. Purpose. The purpose of the scientific article is to reveal the content and define the scope of the concept of "entity ensuring administrative and legal support of law and order." **Results.** The article reveals the content and defines the scope of the concept of 'entity ensuring administrative and legal support of law and order.' It is found that national legislation and legal doctrine of Ukraine do not reveal the content of the category 'entity ensuring administrative and legal support of law and order.' It is stated that in the mechanism of administrative and legal support of law and order, entities are the central static element which enter into public relations regulated by law in accordance with their sectoral content. It is concluded that the scope of the concept of 'entity ensuring administrative and legal support for law and order' includes: law-making entities; law application entities; law enforcement entities (law enforcement bodies). According to the structural organisation, the entities of administrative and legal support of law and order are proposed to be grouped into collegial and individual entities. It is stated that, according to the manner of formation, the entities ensuring administrative and legal support of law and order may be established as a result of elections, by assignment or through self-organisation. It is highlighted that the entities ensuring administrative and legal support of law and order have the following features: they are a static component of the mechanism for ensuring law and order in the State; their organisation and functioning are determined by the regulatory and legal framework in the State; the purpose of their activities is to create the necessary environment for the exercise of human rights and freedoms, their direct protection and defence; the means of achieving this goal are administrative and legal. **Conclusions.** The concept of 'entities ensuring administrative and legal support of law and order' is defined as the state, its legislative, executive and judicial authorities, enterprises, institutions, organisations of all forms of ownership, public associations, individual citizens who exercise the rights, duties, powers and responsibilities strictly defined by the Constitution of Ukraine, laws, other legal regulations to create the necessary environment for the existence of a stable law and order and guarantee the orderliness of social relations in the state, through administrative and legal means.'

Key words: state body, executive body, law and order, body ensuring law and order, law enforcement body, administrative and legal support, entity ensuring administrative and legal support of law and order.

1. Introduction

In the context of the ongoing armed conflict on the territory of the state, along with the simultaneous implementation of transformational reforms in the European integration direction, Ukrainian society is developing, and rapid progress is being made in some sectors of civil society (technological, social, spiritual, cultural, etc.). However, statistics confirm an 18% increase in the number of detected cases of illegal handling of weapons in 2023 (from 4.5 thousand to 5.3 thousand), which is due to the increase in the number

of weapons and ammunition held by the civilian population, including trophy weapons, as a result of Russia's ongoing armed aggression against Ukraine (Report of the National Police of Ukraine on the results of its work in 2023, 2024). In addition, the facts of crimes committed on the territory of Ukraine by members of the armed forces of the Russian Federation, Belarus and their accomplices are being revealed (since the beginning of the armed aggression of the Russian Federation - 110.7 thousand) (Report of the National Police of Ukraine on the results of its work in 2023, 2024). In 2023,

about 2.9 thousand important information resources of the Russian Federation and Belarus were blocked (government websites, banking and media, air travel, etc.) (Report of the National Police of Ukraine on the results of its work in 2023, 2024). Other types of law and order violations in Ukraine are also steadily increasing in number and scale. Accordingly, the mechanism for ensuring law and order in the country needs to be strengthened, and stabilising factors need to be introduced, the role of which is mainly played by law and order. It is the law enforcement agencies that can perform the functions of normalising the operational situation and the development of society and the state in these circumstances.

A review of the leading scientific studies conducted in Ukraine in recent years enables to state that the researchers have not focused enough on the theoretical study of the content and scope of the concept 'entity ensuring administrative and legal support of law and order'. Certain aspects of this issue have been covered in the works of O. Dzhafarova, I. Okuniev, T. Podorozhna, O. Prokopenko, P. Rabinovych, O. Skakun, V. Sokurenko, V. Fatkhutdinov, M. Khavroniuk and others.

Therefore, the purpose of the scientific article is to reveal the content and define the scope of the concept of "entity ensuring administrative and legal support of law and order."

2. Content of the concept of 'entity ensuring administrative and legal support of law and order'

Neither national legislation nor legal doctrine of Ukraine reveal the content of the category 'entity ensuring administrative and legal support of law and order.' However, in the mechanism of administrative and legal support of law and order, entities are the central static element which enter into public relations regulated by law in accordance with their sectoral content. The relevance of the study is due to the need to develop a theoretical basis for further correct application of terms and concepts in practice. With a view to understanding the content of the concept of the category 'entity ensuring administrative and legal support of law and order', it is necessary to consider its essence with regard to its constituent elements.

The Dictionary of the Ukrainian Language interprets the word 'subject/entity' in the legal sense - a person or organisation as a holder of certain rights and obligations (Dictionary of the Ukrainian language in 11 volumes, 2005). The Dictionary of Legal Terms defines the term 'subject of law' as an individual or legal entity that is legally capable of having and exercising rights and legal obligations directly or through

a representative, that is, legal personality. A subject of law is a mandatory element of legal relations in all branches of law, although in each of them it has certain specifics (Legal Dictionary. Collection of Legal Terms, 2019). Therefore, we can say that the subject of law and the participant in legal relations are interconnected.

It should be noted that the discussion among scholars continues to this day regarding the correlation of the concepts of 'subject of law' and 'participant in legal relations,' but most conclude that the concept of 'subject of law' is general and primary, and the concept of 'participant in legal relations' is specific and secondary. We agree that a participant in legal relations is an individually defined subject of law who has exercised his or her legal personality in terms of exercising specific rights and freedoms in specific legal relations, but not every subject of law is a participant in a particular legal relationship. The transformation of a subject of law into a participant in legal relations is associated with the process of transforming the possible into the actual, transforming the existence of objective law into real conduct (Sanzharuk, 2003). Given that entities ensuring law and order directly or indirectly perform functions related to ensuring law and order, they are participants in legal relations on ensuring law and order, and therefore are participants in legal relations.

Therefore, an entity ensuring administrative and legal support of law and order is a participant in legal relations arising in the state. Accordingly, a participant in legal relations is a holder of subjective rights and obligations. We agree with the position of O. Prokopenko that speaking about the entities ensuring law and order in the region, the author means the participants in such legal relations (and not the subjects of law), since they are endowed with a specific scope of powers defined at the legislative level - they have a legal obligation to perform law enforcement activities and enjoy the relevant rights in this regard, that is, they are real participants in such social relations regulated by law (Prokopenko, 2016).

According to the Ukrainian dictionary, 'support' means to: 1) supply something in sufficient quantity, satisfy someone or something in some needs; 2) create reliable conditions for the implementation of something; guarantee something; 3) protect, guard someone or something from danger (Dictionary of the Ukrainian language in 11 volumes, 2005).

Law enforcement is the process of guaranteeing a safe environment for all citizens in their daily lives, in accordance with the legal framework of the country, mainly by

preventing and deterring offences, as well as by taking appropriate measures to stop violations of the law (Sokurenko, 2021). The rule of law not only reflects the orderliness of social relations, but also reflects the quality of the activities of the entities that ensure it.

Therefore, it can be concluded that the specific feature of activities of entities ensuring law and order is that they create the necessary conditions for the realisation of human rights and freedoms, their direct protection and defence (Nehodchenko, 2004), create the necessary conditions for the existence of stable law and order, and guarantee the orderliness of social relations.

3. The role of the state in ensuring law and order

It is well known that the state plays a leading role in ensuring law and order. It ensures law and order through its bodies at the central and local levels. We agree with the conclusion of T. S. Podorozhna that the activities of the state authorities are aimed at establishing law and order, that is, achieving one of the possible states of organisation of the social system, caused (set) by the influence of regulatory factors. The actual activity of the State to ensure law and order includes such components as the subject (object) orientation of this activity, its goals and, accordingly, the forms, ways, methods of state legal activity, that is, the procedural principles of this activity. Therefore, law and order are both a process and a result of the operation of law (all legal means) and the purposeful influence of the State on social relations that are the subject matter of regulatory framework. The activities of the entities directly depend on their competence, which they have in accordance with their powers. In addition, the expediency of allocating public authorities in the field of ensuring law and order is an element of guarantees of its constitutionalisation, which is due to the effective system of such bodies. It is understood that only an effective system of competent public authorities will be able to ensure effective law and order in public relations (Podorozhna, 2017).

Thus, the entities ensuring law and order include the state and its bodies, local self-government bodies, individuals, legal entities of all forms of ownership, and public associations. Entities should have legal personality, which consists of a passive legal capacity (the ability to have rights and perform duties) and an active legal capacity (the ability to acquire and exercise subjective rights and duties through their actions).

The entities ensuring law and order are usually either specifically endowed with

the relevant rights and duties in this field or these rights and duties are a concomitant consequence of their state activities or informal implementation of public duty. For example, the decisive role of the Verkhovna Rada of Ukraine is to constructively influence state authorities and local self-government bodies. The President of Ukraine is an integrating element of the system of entities ensuring law and order. The system of ensuring law and order also includes the Cabinet of Ministers of Ukraine and the judiciary (Fatkhutdinov, 2018). In other words, the entities ensuring law and order include state legislative, executive and judicial authorities, enterprises, institutions, organisations of all forms of ownership, public associations, and individual citizens in accordance with their competence.

Therefore, the scope of the concept of 'entity ensuring administrative and legal support for law and order' includes:

1. Law-making entities are authorised to establish (authorise), amend, and repeal legal norms, both at the legislative and regulatory levels. Such entities are both the state represented by state bodies and their officials (the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, central executive authorities, etc.) and civil society and its individual entities (territorial communities, associations of citizens). Within the scope of their competence, such entities may adopt relevant regulations or enter into regulatory agreements, including in the area of ensuring law and order;

2. Law application entities. In Ukraine, it is generally believed that only state bodies and public associations authorised by the state are entities of law application, since this activity must be of a state power nature (Rabinovych, 2007). However, the development of civil society encourages the expansion of the range of entities involved in law application. Therefore, the main entities involved in law application are state bodies, organisations and their officials. The state bodies whose main function is law application include executive authorities, administrative bodies, courts, prosecutor's offices, security services, police, investigative committees, correctional institutions, and notaries. A special place in the system of law application entities belongs to individual subjects of public law - officials who are the primary structural unit of a state body and its apparatus, enterprise, institution or organisation. Non-governmental organisations that have the right to perform law application activities include associations of citizens (public organisations, trade unions, local self-government bodies, arbitration courts). Kelman M.S. and Koval I.M. argue

that non-state (private) entities perform law application activities on clearly defined issues on the basis of delegated powers (Kelman, Koval, 2020);

3. Law enforcement entities (law enforcement bodies) – prosecutor's offices, the National Police, security services, the Military Law Enforcement Service in the Armed Forces of Ukraine, the National Anti-Corruption Bureau of Ukraine, state border protection bodies, the Bureau of Economic Security of Ukraine, penitentiary bodies and institutions, pre-trial detention centres, state financial control bodies, fisheries protection, state forest protection, other bodies performing law enforcement or law enforcement functions (Law of Ukraine On state protection of court and law enforcement officers, 1993).

According to the structural organisation, the entities of administrative and legal support of law and order are proposed to be grouped into collegial (such as the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, etc.) and individual (in particular, the President of Ukraine, officials, representatives of law enforcement agencies, individual citizens, etc.).

According to the manner of formation, the entities ensuring administrative and legal support of law and order may be established as a result of elections (for example, the President of Ukraine, MPs, etc.), by assignment (in particular, law enforcement agencies), and by self-organisation (NGOs, individuals, etc.).

In order to reveal the content of the concept of 'entities ensuring administrative and legal support of law and order,' it is important to highlight the specific features of this phenomenon of state and legal reality. Among the participants in legal relations in the State, they are: 1) they are a static component of the mechanism for ensuring law and order in the State; 2) their organisation and functioning are determined by the regulatory and legal framework in the State; 3) the purpose of their activities is to create the necessary environment for the exercise of human rights and freedoms, their direct protection and defence; the means of achieving this goal are administrative and legal.

4. Conclusions

Given the provisions of Ukrainian legislation, the theoretical achievements of domestic scholars, as well as the specific features of the entities ensuring administrative and legal support of law and order, we can propose the following definition of the concept of 'entities ensuring administrative and legal support of law and order' is the state, its legislative, executive and judicial authorities, enterprises, institutions, organisations of all forms of ownership, public associations, individual citizens who exercise the rights,

duties, powers and responsibilities strictly defined by the Constitution of Ukraine, laws, other legal regulations to create the necessary environment for the existence of a stable law and order and guarantee the orderliness of social relations in the state, through administrative and legal means.'

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ЗМІСТ ТА ОБСЯГ ПОНЯТТЯ «СУБ'ЄКТ АДМІНІСТРАТИВНО-ПРАВОВОГО ЗАБЕЗПЕЧЕННЯ ПРАВОПОРЯДКУ»

Анотація. Метою наукової статті є розкриття змісту та визначення обсягу поняття «суб'єкт адміністративно-правового забезпечення правопорядку». **Результати.** В науковій статті розкрито зміст та визначено обсяг поняття «суб'єкт адміністративно-правового забезпечення правопорядку». З'ясовано, що національне законодавство та правова доктрина України не розкривають зміст категорії «суб'єкт адміністративно-правового забезпечення правопорядку». Констатовано, що в механізмі адміністративно-правового забезпечення правопорядку суб'єкти є центральним статичним елементом, які вступають у публічні відносини, що врегульовані правом відповідно до їх галузевого змісту. Зроблено висновок, що обсяг поняття «суб'єкт адміністративно-правового забезпечення правопорядку» становлять: правоутворюючі суб'єкти; суб'єкти правозастосування; правоохоронні суб'єкти (правоохоронні органи). За структурною організацією суб'єкти адміністративно-правового забезпечення правопорядку запропоновано поділити на колегіальні та одноособові. Відзначено, що за способом формування суб'єкти адміністративно-правового забезпечення правопорядку можуть створюватися в наслідок виборів, призначатися або шляхом самоорганізації. Виділено особливості суб'єктів адміністративно-правового забезпечення правопорядку: є статичною складовою механізму забезпечення правопорядку в державі; їх організація та функціонування визначені нормативно-правовими засадами в державі; метою їх діяльності є створення необхідних умов для реалізації прав і свобод людини, їх безпосередньої охорони та захисту; засоби досягнення цієї мети є адміністративно-правовими. **Висновки.** Запропоновано дефініцію поняття «суб'єкти адміністративно-правового забезпечення правопорядку – це держава, її органи законодавчої, виконавчої та судової влади, підприємства, установи, організації всіх форм власності, громадські об'єднання, окремі громадяни, які реалізують права, обов'язки, повноваження та відповідальність, суворо визначені Конституцією України, законами, іншими правовими актами щодо створення необхідних умов для існування стабільного правопорядку та гарантують впорядкованість суспільних відносин в державі, за допомогою адміністративно-правових засобів».

Ключові слова: державний орган, орган виконавчої влади, правопорядок, орган правопорядку, правоохоронний орган, адміністративно-правове забезпечення, суб'єкт адміністративно-правового забезпечення правопорядку.

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