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ADMINISTRATIVE-LEGAL MECHANISM OF ECONOMIC SECURITY SYSTEM OF THE COUNTRY

The paper identifies the shortcomings in legal regulation of economic security. An administrative-legal mechanism to ensure economic security is proposed, its components are described. The ways to optimize the regulatory field of economic security in Ukraine are identified.

Keywords: administrative-legal mechanism; economic security; threats to security.

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АДМІНІСТРАТИВНО-ПРАВОВИЙ МЕХАНІЗМ СИСТЕМИ ЕКОНОМІЧНОЇ БЕЗПЕКИ КРАЇНИ

У статті визначено недоліки правового регулювання економічної безпеки країни. Запропоновано адміністративно-правовий механізм забезпечення економічної безпеки, надано характеристику його складових. Визначено шляхи оптимізації нормативного поля економічної безпеки в Україні.

Ключові слова: адміністративно-правовий механізм; економічна безпека; загрози безпеці.

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АДМИНИСТРАТИВНО-ПРАВОВОЙ МЕХАНИЗМ СИСТЕМЫ ЭКОНОМИЧЕСКОЙ БЕЗОПАСНОСТИ СТРАНЫ

В статье определены недостатки правового регулирования экономической безопасности. Предложен административно-правовой механизм обеспечения экономической безопасности, охарактеризованы его составляющие. Определены пути оптимизации нормативного поля экономической безопасности в Украине.

Ключевые слова: административно-правовой механизм; экономическая безопасность; угрозы безопасности.

Introduction. Further development of Ukraine and its recognition as an equal member of geoeconomic and geopolitical associations undoubtedly includes the need to ensure the sovereignty and independence of the country, because only having these features the state can be characterized as a self-sufficient and independent subject of internal and external relations. International cooperation aims to prevent global crises in various spheres of life, resolve disputes and assist in disaster relief. In some cases, however, interstate cooperation and integration often generate more conflicts due to collision of interests. That is why the main function of the state is to protect its citizens' needs, welfare, way of life, hence ensuring the national security.

One of the basic components of national security, along with political, information and military ones, which ensures the sovereignty and independence of the state, is economic security as a guarantee of country's independence and a prerequisite for stability. Economic security of business entities suggests their economic activity and development are exclusively held in the legal field, which is formed, regulated and supervised by legislative and regulatory acts of the state.

There is a two-way relationship between economic security of the state and of business entities, which channels through administrative sanctions and legal regulation. This relationship provides an assessment of the real state of economic security,

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determines how the existing regulations correspond to the business realities, and finally, adjust efficiently and in a timely manner with the emergence of new threats in internal and external environments.

Recent research and publications analysis. Following the position of Z.S. Varnaliy et al. (2011) the main threat to economic security is the lack of purposeful legal policy on state regulation of economic processes in the context of realization of the proclaimed strategies of socioeconomic development of a country.

The law-making process under changing internal and external economic threats requires a stable but also dynamic legal regulation, which should allow systematic and purposeful development of legislation in the field of economic security. In turn, changes in legal regulation, including economic security, still remain fragmentary and require bringing national legislation in line with international standards.

Over the years, a multifaceted problem of formation of regulatory and legal support of economic security has been analyzed by well-known scholars and practitioners in the field, including M.M. Yermoshenko and K.S. Horiacheva (2010), M.M. Kochevoi (2014), I.I. Podik and Iu.V. Honcharov (2012), A.I. Prsyazhniuk (2011), Z.S. Varnalii et al. (2011), O.B. Zhykhor and T.M. Kutsenko (2013) and others. During the last decade the number of such publications increased dramatically. However, the effectiveness of such investigations and the practical use of the obtained results for the formation of administrative mechanism and creation of legal field for economic security of Ukrainian national economy still remain insufficiently explored.

The need for indepth study of this issue comes from the strategic focus of foreign economic policy of Ukraine on the prospective integration into European economic and social structures in the context of further globalization. Despite significant achievements in the study of legal protection of economic processes, a wide range of scientific and practical issues, especially the aspects of the administrative-legal mechanism of economic security require further research.

The purpose of this paper is the determination of the contents of the existing legislation on economic security for the formation of administrative-legal mechanism of economic security and further development of proposals on the regulatory framework optimization.

Key research findings. Imperfection of national legislation on national economic security is confirmed by a number of studies. The major shortcomings of the current regulatory and legal environment of economic security are the following ones: ambiguity, incompleteness, instability and inconsistency of standards within the legal framework; lack of coordination between law makers; absence of an effective system for legal acts introduction; imperfect legislation, significant gaps in the legal field (Law of Ukraine, 16.06.2003, # 964-IV).

The issue of state security, especially national security in general and economic security in particular, is regulated by the Constitution of Ukraine (28.06.1996, # 254к/96-VR), and also the Law of Ukraine "On National Security of Ukraine" (19.06.2003, # 964-IV), "On the Fight against Corruption" (05.10.1995, # 356/95-VR), "On the Principles of Domestic and Foreign Policy" (1.07.2010, # 2411-17) and others.

According to the Law of Ukraine "On National Security of Ukraine" of June 19, 2003 # 964IV, economic security is part of the wider concept of national security of

Ukraine, which is provided in accordance with adopted doctrines, strategies, concepts and programs.

The specifics of this concept allows defining the term "legal regulation of economic security" as one of the constituent elements of the law, which characterizes the state influence on economic security by legal means (the rule of law, legal relationship, acts of implementation and application) and other legal effects (legal principles, law-making activities).

It seems important to pay attention to the main tasks of administrative and legal economic security, which are the following ones: to forecast possible threats that may lead to crisis; to conduct crisis management operations in order to bring the country out of crisis; and, finally, to minimize internal and external threats to the economic state of the country, in particular to its financial, material, information, human resources, using a range of measures of economic, legal and institutional character.

Concerning the generalization of scientists' views on the nature of the mechanisms of administrative-legal regulation of economic security, it should be emphasized that there is a wide range of elements: the rule of law; legal regulations, legal facts and acts of law; legal relationship; rights and responsibilities; subjects and objects of impact; principles and instruments; management practices; activities aimed at ensuring economic security, procedures and algorithms of its implementation; organizational structure and personnel management; appropriate support (political, legal and information) (Varnalii et al., 2011; Zhykhor and Kutsenko, 2013: 14–17).

In this regard, the most appropriate interpretation is proposed by I.I. Podik and Iu.V. Honcharov (2012), who state that the mechanism of economic security of Ukraine should include at least 4 main elements: regulatory framework; functional mechanism of public authority; system entities; social and political infrastructure.

It is evident that such an approach guarantees an appropriate legal, organizational and functional unity, embodied in the state-legal mechanism ensuring economic security of Ukraine, where the unity of legal basis is provided directly by the general mechanism and integrated organizational structure.

On the basis of the above observations, we can propose a legal-administrative mechanism for the system of economic security, which consists of the following units: the control system, which combines together subject control and object control, as well as the target subsystem that covers the target and the main results of functioning and system support (Figure 1).

The main purpose of administrative-legal mechanism of economic security of the state is to achieve the maximum stability of national economy and create necessary conditions for its further growth, even if there are certain objective and subjective factors bearing threats. This issue has become increasingly important in the context of global economic crisis (Zhykhor and Kutsenko, 2013).

The structure of economic security has two levels. The first one is the economic security of business entities operating within the state. The second level is ensuring the economic security of business entities operating abroad. However, over the last years the available legislation does not pay sufficient attention to the second level economic security issues and challenges.

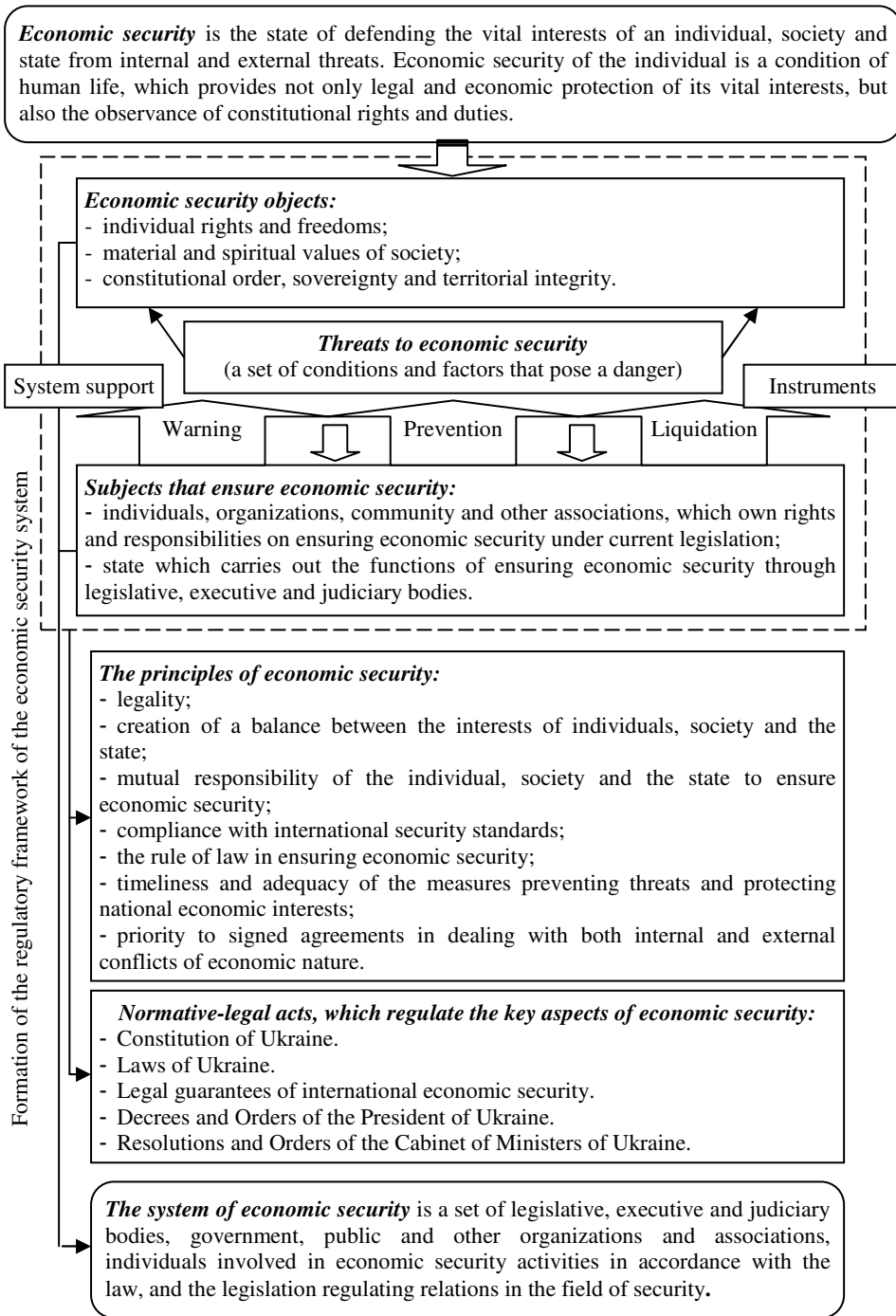


Figure 1. Administrative-legal mechanism of the economic security system, author's

The legal framework regulating the economic security of Ukraine is outlined below:

- The Article 17 Constitution of Ukraine (28.06.1996, # 254к/96-VR), which points out that "to protect the sovereignty and territorial indivisibility of Ukraine, and to ensure its economic and informational security are the most important functions of the State and a matter of concern for all Ukrainian people".

- Laws of Ukraine "On National Security of Ukraine" (19.06.2003, # 964-IV), "On the National Security and Defense Council of Ukraine" (5.03.1998, # 183/98-VR), "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime" (14.10.2014, # 1702-VII), tax and currency legislation; Ukrainian Laws on privatization (4.03.1992, # 2163-XII), Bankruptcy (30.06.1999, # 784-XIV), Foreign Economic Activity (16.04.1991, # 959-XII); Criminal (5.04.2001, # 2341-III) and Criminal Procedure (13.04.2012, # 4651-VI) Codes, Civil (13.04.2012, # 4051-VI) and Civil Procedure (18.03.2004, # 1618-IV) Codes, Customs Code of Ukraine (13.03.2012, # 4495-VI), the Budget Code of Ukraine (8.07.2010, # 2456-VI), the Economic Code of Ukraine (16.01.2013, # 436-IV) etc., that are directly related to regulation of relations in economic sphere.

- Decrees and Orders of the President of Ukraine.

- Resolutions and Orders of the Cabinet of Ministers of Ukraine.

Considering the structure of the proposed mechanism, all possible threats to economic security can be grouped into the following blocks:

1. Growth of property, financial and material differentiation of population, increasing poverty, leading to destabilization and social disorder.

2. Deformation of the structure of Ukraine's national economy due to the following reasons:

- the growth of fuel and raw materials orientation of the national economy;
- reduced effectiveness, destruction of technological unity of scientific research and development, degradation of scientific-technical and military-technical potential;

- inflow of foreign companies into the domestic consumer market;

- increasing external debt, and the corresponding increase of budget expenditures for its repayment (Podik and Honcharov, 2012).

3. Strengthening the uneven socioeconomic development of regions, caused by the objective differences in the level of their socioeconomic development. The existence of depression and crisis signs and economically depressed areas on the background of structural changes in industrial production, accompanied by a sharp decrease in the share of manufacturing.

4. Criminalization of the society and of economic activities. The main factors of this threat are the following:

- close relationship between state authorities and organized crime, real chances for criminal organizations to get access to the management of a certain part of social production and their intrusion in the work of different government bodies;

- reduction of state control in many fields of activity, which results in the expansion of criminal organizations at the domestic financial market, in the fields of privatization and export-import operations etc.

As a result, the supportive element of the proposed mechanism should contain scientific-methodical, information, organizational, legal and financial elements (Prsyazhniuk, 2011).

The most significant element of this mechanism is the set of administrative and economic instruments to manage economic security, which should be divided into 3 levels: national, regional and that of an enterprise.

In addition, direct economic instruments at the regional level include: public procurement, subsidies, targeted funding, while the instruments of indirect impact are the following: tax rates, tax exemptions; monetary instruments (the discount rate of the National Bank of Ukraine, reserve requirements, leasing, credit facilities, operations of public institutions at the securities market); currency instruments (exchange rate); customs instruments (tariffs mostly); investment tools (depreciation rates, government guarantees to investors).

At the level of individual business entities we consider it appropriate to define the following administrative and economic instruments: diagnostics, control, planning, regulation, financial incentives etc. (Zhykhor and Kutsenko, 2013).

Legal maintenance of economic security should consist of two broad areas: protection measures minimizing the influence of factors affecting national economy and carrying out offensive actions to protect proactively economic interests.

Considering the results of the investigation of the contents and structure of administrative-legal mechanism of national economic security, we can draw the following **conclusions**:

- the proposed mechanism involves two interrelated subsystems (the subsystem of social relations and the subsystem of the mechanism structure), which together form this mechanism;
- the described mechanism contributes to the implementation of state authority and functions of enterprises, institutions, organizations and associations in the field of economic security and can be described as a holistic, systematically organized instrument of influence on the economic sphere, in which the object of impact is not only legal relations within national economy ensuring its security, but also individual rights and freedoms, material and spiritual values of society, constitutional order, sovereignty and territorial integrity;
- the contents and the main features of this mechanism are formed under the influence of specifics of economic functions of the state and individual subjects of economic security (organizations, public and other associations, which have rights and responsibilities to ensure economic security under current legislation).

On the basis of the above observations, it can be concluded that improving the efficiency of this mechanism can be accomplished only by means of further improvement of its subsystems (blocks) and the elements within them. This applies particularly to the improvement of social relations order, better administrative and legal regulation of activities of the authorized bodies of power.

That is why further research concerning the improvement of administrative-legal mechanism of economic security should be aimed at clarifying legal and administrative modalities that are part of this mechanism, as well as at the determination of specific features of its application in relation to certain directions of the implementation of the economic functions of the state (i.e. objects of economic security) and the

establishment of the role of the subjects of economic security in the implementation of these activities.

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