

LEGAL MECHANISM FOR THE IMPLEMENTATION OF STATE POLICY IN THE FIELD OF OVERCOMING THE CONSEQUENCES OF MILITARY ACTIONS IN UKRAINE

ПРАВОВИЙ МЕХАНІЗМ РЕАЛІЗАЦІЇ ДЕРЖАВНОЇ ПОЛІТИКИ У СФЕРІ ПОДОЛАННЯ НАСЛІДКІВ ВОЄННИХ ДІЙ В УКРАЇНІ

The issue of improving the legal mechanism for the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine was updated. The study of legal mechanisms for the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine allowed to classify them into two main types: legal mechanisms of state management, the purpose of which is to ensure the sustainable socio-economic development of the regions of the state in the conditions of overcoming the consequences of military actions, and those whose purpose is there is a settlement of the crisis consequences of military actions. It was determined that the normative-creative process of socio-economic development consists of laws and subordinate regulatory legal acts, the main of which are state target programs aimed at achieving goals that require the concentration of resources and control over their effective use by the state. The program-oriented approach is becoming an increasingly effective mechanism for solving serious socio-economic problems in the countries of the world. And therefore, when overcoming the consequences of military actions, the implementation of state targets is an extremely effective approach. It is substantiated that the maintenance of law and order after the end of the active phase of hostilities requires deep legal reforms and strategic planning. The main such priorities should be: professionalization of the security forces and digitalization of their activities; development of cooperation with the community based on trust; elimination of risks of criminalization of society and politicization of power structures. An effective reform of the security forces should become the basis for stabilizing the country, contributing to economic recovery, integration into the European space and building a safe society. The author's definition of the legal mechanism for the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine has been formed. The directions of further scientific research, which will be aimed at the development of the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine through the development of appropriate development strategies, have been determined.

Key words: public administration, consequences of military actions, legal mechanism, state policy, state authorities, local self-government bodies, security forces.

Проведено актуалізацію питання удосконалення правових механізмів реалізації державної політики у сфері подолання наслідків воєнних дій в Україні. Дослідження правових засад реалізації державної політики у сфері подолання наслідків воєнних дій в Україні дозволило здійснити класифікацію відповідних правових механізмів на два основних види: правові механізми державного управління, метою яких є забезпечення сталого соціально-економічного розвитку регіонів держави в умовах подолання наслідків воєнних дій та механізми – метою яких є врегулювання наслідків воєнних дій. Визначено, що нормативно-творчий процес соціально-економічного розвитку складається із законів і підзаконних нормативних правових актів, основним з яких є державні цільові програми, спрямовані на досягнення цілей, що вимагають концентрації ресурсів і контролю за їх ефективним використанням. Програмно-орієнтований підхід стає все більш дієвим механізмом вирішення соціально-економічних проблем в країнах світу. А отже, під час подолання наслідків воєнних дій застосування державних цільових програм є вкрай ефективним підходом. Обґрунтовано, що забезпечення громадської безпеки після закінчення активної фази бойових дій потребує глибоких правових реформ та стратегічного планування. Основними такими пріоритетами мають бути: професіоналізація сил безпеки та цифровізація їхньої діяльності; розвиток співпраці з громадою на основі довіри; усунення ризиків криміналізації суспільства та політизації сил безпеки. Ефективна реформа сил безпеки має стати основою для стабілізації країни, сприяючи економічному відновленню, інтеграції до європейського простору та побудові безпечного суспільства. Сформовано авторське визначення правового механізму реалізації державної політики у сфері подолання наслідків воєнних дій в Україні. Визначені напрями подальших наукових досліджень, які будуть спрямовані на реалізацію державної політики у сфері подолання наслідків воєнних дій в Україні шляхом розроблення відповідних стратегій розвитку.

Ключові слова: державне управління, наслідки воєнних дій, правовий механізм, державна політика, органи державної влади, органи місцевого самоврядування, сили безпеки/

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Statement of the problem in general form.

The hostilities in Ukraine have caused large-scale destruction of infrastructure, environmental degradation, loss of population and deterioration of the socio-economic situation. The restoration of the country requires a comprehensive approach covering all aspects of society. An important task is the integration of national and international

resources, the development of strategies for sustainable development, as well as the effective management of restoration processes [1-2].

The end of hostilities in Ukraine creates new challenges for ensuring law and order, restoring public administration and strengthening public trust in law enforcement agencies. In this context, the vectors of development of security forces,

elimination of risks, overcoming of problems and reform of law enforcement agencies in accordance with modern challenges are key aspects.

The above-mentioned aspects of the regulation of the consequences of hostilities in Ukraine require effective support, which is formed within the framework of the legal mechanism for the implementation of state policy in the field of overcoming the consequences of hostilities in Ukraine.

Analysis of recent research and publications. The development of legal mechanisms for improving management processes in various spheres of social life is devoted to the work of a significant number of scientists and practitioners. Studies of state legal mechanisms for countering crisis situations, crisis phenomena of a socio-economic nature are covered in works [3-5]. The regulatory and legal foundations of the activity of judicial and law enforcement bodies of Ukraine are studied in the work [6]. The problematic issue of the formation and development of the institute of emergency administrative and legal regimes in Ukraine is considered in scientific publications [7-8]. The topic of the development of a program-targeted approach to the state management of social tensions in the regions of the country is raised in the work [9]. Thus, the mechanism of legal regulation is currently the most studied of the mechanisms of law. These mechanisms most fully reveal the essence of state-management relations from the point of view of regulation.

Highlighting previously unresolved parts of the overall problem. Scientists and practitioners have considered a significant number of issues related to the development of legal bases for the regulation of crisis phenomena in various spheres of society's life. However, only fragmentary aspects of the resolution of crisis situations in the post-crisis society have been studied by the conducted research. Complex developments on the development of legal bases for the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine have not been carried out, which actualizes the direction of this research.

The purpose of the article. The main goal of the work is the study of the legal basis for the implementation of state policy in the sphere of overcoming the consequences of military actions in Ukraine in order to form a legal mechanism for the implementation of state policy in the sphere of overcoming the consequences of military actions in Ukraine.

Presentation of the main material. The concept of "mechanism", first of all, is widely used in technical sciences (as a physical object),

from which it originates, but until now, in many social sciences, the concept of mechanism is always used by both scientists and practitioners. In the humanitarian sphere, the mechanism is understood as the use of certain means, the use of selected methods to solve the tasks.

The application of the concept of "mechanism" is also widely used in the field of knowledge of public management and administration. In this field of knowledge, public administration mechanisms have two most widespread meanings – in a narrow sense (a set of certain constituent parts intended for the implementation of administrative decisions) and a broad interpretation (a complex system of state bodies organized to perform public administration tasks) [3].

The legal community understands the mechanism of legal regulation as a system of interconnected legal means, measures, tools, levers, etc., which function for the purpose of implementing legal regulation. In addition, the scientific community equates the mechanisms of legal regulation with the creation and functioning of a single system of legal regulation [4]. Scientific studies have determined that the legal regulatory mechanism allows to systematize the means of legal influence on social relations, as well as to determine the place and role of certain legal means in the legal life of society [6].

Legal norms and principles of law, objectified in normative legal acts, are the basis of mechanisms of legal regulation, since it is from the rules of behavior formulated in them that the legal influence on social relations begins. Normative and legal provision of the state regulation of the consequences of military actions consists of legislative and sub-legislative regulatory legal acts. By-laws supplement laws and, in turn, adjust legislation [5].

Based on the analysis of the activities of state authorities, local self-government bodies and security forces during crisis situations, scientific opinion determined the classification of normative legal acts, according to the so-called legal force, in the following order: "Constitution of Ukraine; international legal acts ratified by Ukraine; Constitutional Laws of Ukraine; norms of material and procedural law, combined into codes of Ukraine and Laws of Ukraine; resolutions of the Verkhovna Rada of Ukraine; decrees and Acts of the President of Ukraine; resolutions of the Cabinet of Ministers of Ukraine; inter-branch normative acts, departmental and inter-departmental normative acts; normative acts of local state administrations; normative acts of local self-government bodies. Kuznichenko O. determines that legal acts of special temporary management bodies, which are created under the conditions of

the introduction of administrative-legal regimes, are above this classification. Such bodies can be commissions for emergency situations, operational headquarters, investigative commissions, etc. [7-8]. We fully support this statement.

The study of legal mechanisms for the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine allowed to classify them into two main types: legal mechanisms of state management, the purpose of which is to ensure the sustainable socio-economic development of the regions of the state in the conditions of overcoming the consequences of military actions, and those whose purpose is there is a settlement of the crisis consequences of military actions.

The normative-creative process of socio-economic development consists of laws and subordinate regulatory legal acts, the main of which are state target programs aimed at achieving goals that require the concentration of resources and control over their effective use by the state. The program-oriented approach is becoming an increasingly effective mechanism for solving serious socio-economic problems in the countries of the world. It is aimed at achieving goals that require concentration of resources and control over their effective use [9, p. 30]. The main normative legal act of Ukraine in this direction is the Law of Ukraine dated March 18, 2004 "State Programs". The state target program is a set of interrelated tasks and measures aimed at solving the most important problems of the development of the state, individual branches of the economy or administrative-territorial units, which are carried out at the expense of the state budget of Ukraine and coordinated by terms and composition of participants, performers and provision of resources.

In future, we will consider the mechanism of legal regulation, the purpose of which is to regulate the consequences of military actions, namely social tensions and social conflicts. The basis of this direction is the law of social security. Also, a significant part of the normative legal acts of Ukraine refers to preventive measures, the purpose of which is to prevent the occurrence of crisis situations. The Constitution of Ukraine defines the powers of the Verkhovna Rada of Ukraine, the President of Ukraine, the National Security and Defense Council of Ukraine in the field of solving emergency situations, and the normative legal acts regulating the activities of state bodies in crisis situations are of particular importance. Such regulatory legal acts are the Laws of Ukraine: "About Security Service of Ukraine", "About National Guard of Ukraine", "About National Police", "About Prosecutor's Office",

"About Armed Forces of Ukraine", "About State Border Service of Ukraine", "About local state administrations", "About local self-government in Ukraine" and others.

State authorities, local self-government bodies, and security forces are tasked with ensuring the protection of public order and implementing public security measures within their powers in the context of performing state and public security tasks. The security aspect of human life in the conditions of overcoming the consequences of military actions, as well as the issue of social tension, psychological aspects of social conflicts, post-traumatic syndromes, and the interaction of state authorities with the population under such conditions is relevant in the perspective of the research topic.

As world practice shows, very often, in conditions of a post-war decline in the level and quality of life of the population, citizens, in accordance with the constitutional rights of a democratic society, hold meetings, rallies, marches and demonstrations. Similar forms of mass protest activity of citizens are called high-profile mass events and actions, which are potentially dangerous. This can be used by destructive forces financed by the aggressor country. Currently, a significant amount of psychological and social research is devoted to the study of the phenomenon of mass protests of citizens. The known mechanisms of state regulation of the consequences of military actions have a preventive meaning, however, when mass riots occur during the mentioned phenomena, state authorities and local self-government bodies are often unable to control the situation. And therefore, there is a need to apply force mechanisms of state counteraction with the involvement of security forces.

Therefore, we will consider the issue of population protection in the future. The end of hostilities in Ukraine creates new challenges for ensuring law and order, restoring public administration and strengthening public trust in the security forces. In this context, the vectors of development of security forces, elimination of risks, overcoming of problems and reform of law enforcement agencies in accordance with modern challenges are key aspects.

On the basis of the above, it is possible to single out the following normative and legal vectors of the development of the security forces of Ukraine [10-12]:

– professionalization of personnel (one of the strategic directions is the creation of professional security forces capable of responding to new challenges; the main measures are considered to be regular training according to NATO standards, the introduction of new educational programs focused on the use of modern

technologies, strengthening of training in the field of cyber security, combating terrorism and crisis management);

- digitalization of the law enforcement system (today, digital technologies are becoming the basis for the modernization of law enforcement activities; vectors of digitalization can be: the introduction of electronic document flow and databases to simplify management processes; the use of video surveillance systems, big data analytics, and machine learning algorithms to solve crimes; creation of platforms for operational informing citizens about security threats);

- integration into European structures (further integration of Ukraine into the EU involves adaptation of legislation to European standards, namely: harmonization of criminal law norms with the requirements of the European Court of Human Rights; participation in international cooperation programs, such as INTERPOL and EUROPOL, etc.).

The main risks of ensuring law and order after the end of hostilities can be considered the following:

- criminalization of society (military actions caused an increase in the illegal circulation of weapons, ammunition and explosives - this creates a risk of increasing crime, in particular organized crime);

- mistrust of the law enforcement system (the duration of hostilities led to a significant decrease in the level of trust in state institutions – this makes it difficult for the security forces to cooperate with the population in the fight against crime);

- politicization of power structures (the use of security forces in political interests can increase social tension and hinder effective enforcement of law and order);

- risks of cybercrime (military operations have shown the vulnerability of state infrastructure to cyberattacks – after the end of military operations, the probability of an increase in cybercrimes remains).

Continuing consideration of the legal basis for the development of the security forces in accordance with the directions of implementation of the state policy on overcoming the consequences of military actions, possible problems in the work of the security forces:

- lack of resources (military operations have exhausted the country's budget, which makes it difficult to finance reforms and modernization of the security forces);

- personnel outflow (a significant number of security force personnel may leave the service due to high physical and psychological stress);

- problems with the reintegration of veterans (the return to civilian life of military personnel

creates the need for their adaptation to new working conditions in the security forces);

- ineffective coordination between the components of the security forces (the lack of effective interaction between the National Police, the Security Service of Ukraine, the National Anti-Corruption Bureau of Ukraine, the National Guard of Ukraine and other components complicates the fight against crime).

In the aspect of the aforementioned reform of the security forces, it is an integral component of the legal mechanism of the state policy of overcoming the consequences of military actions, which includes the following actions:

- modernization of the structure: decentralization (transfer of part of the functions to local self-government bodies); specialization (creation of units to combat specific types of crimes (cybercrimes, terrorism);

- strengthening of anti-corruption measures: expansion of powers of the National Anti-Corruption Bureau of Ukraine and other anti-corruption structures; conducting regular audits and investigations into possible abuses among law enforcement officers;

- integration of Community principles Policing (cooperation with local communities should become the basis of police work: holding meetings with the population to determine the main problems; creating rapid response groups that will work in close contact with the community);

- increase in social guarantees: provision of additional benefits and compensations to employees of the security forces; introduction of psychological support programs for law enforcement officers.

In light of the above, we would like to add that Ukraine can benefit from the experience of other countries that have survived military conflicts. Such countries are: Croatia, in the field of creation of special rehabilitation programs for war veterans; Georgia, regarding the reorganization of the police through the liquidation of old structures and the formation of new ones Germany, with the experience of implementing public control over the activities of law enforcement agencies [12].

Ensuring law and order after the end of the active phase of hostilities requires deep legal reforms and strategic planning. The main such priorities should be: professionalization of the security forces and digitization of their activities; development of cooperation with the community based on trust; elimination of risks of criminalization of society and politicization of power structures. An effective reform of the security forces should become the basis for stabilizing the country, contributing to economic

recovery, integration into the European space and building a safe society.

Thus, in the direction of researching the security aspect of human life in the conditions of overcoming the consequences of military actions, issues of social tension, social conflicts and the interaction of state authorities and the population, scientists studied the state policy of social security, the security of the development of human potential in Ukraine and ways to improve it, innovative approaches to the implementation of social protection of the population, public monitoring of administrative and state institutions, assessment and diagnosis of social tension within the framework of the national target program, the mechanism of influence of social changes on social tension in modern society.

On the basis of these studies, it is possible to note that military actions lead to severe consequences and emergency situations. The emergence of the consequences of military actions is an urgent and acute problem of ensuring national security and requires the government to make timely, adequate and effective management decisions. Therefore, in our opinion, the legal mechanism for the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine should be understood as a set of normative and legal measures, means, levers, incentives, with the help of which state authorities and local self-government bodies carry out legal regulation with the aim of overcoming consequences of military actions and reducing the level of threats to the person, society and the state.

Conclusions. Based on the research presented in the article, it is possible to reach the following conclusions regarding the functioning and development of the legal mechanism for the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine.

1. The end of hostilities in Ukraine creates new challenges for ensuring law and order, restoring public administration and strengthening public trust in law enforcement agencies. In this context, the vectors of development of security forces, elimination of risks, overcoming of problems and reform of law enforcement agencies in accordance with modern challenges are key aspects. The above-mentioned aspects of the regulation of the consequences of hostilities in Ukraine require effective support, which is formed within the framework of the legal mechanism for the implementation of state policy in the field of overcoming the consequences of hostilities in Ukraine.

2. Scientists and practitioners have considered a significant number of issues related to the development of legal bases for

the regulation of crisis phenomena in various spheres of society. However, only fragmentary aspects of the resolution of crisis situations in the post-crisis society have been studied by the conducted research. Complex developments on the development of legal bases for the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine have not been carried out, which actualizes the direction of this research.

3. The study of legal mechanisms for the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine allowed to classify them into two main types: legal mechanisms of state administration, the purpose of which is to ensure the sustainable socio-economic development of the regions of the state in the conditions of overcoming the consequences of military actions, and those – the purpose of which is to settle the crisis consequences of military actions.

4. The normative-creative process of socio-economic development consists of laws and subordinate regulatory legal acts, the main of which are state target programs aimed at achieving goals that require the concentration of resources and control over their effective use by the state. The program-oriented approach is becoming an increasingly effective mechanism for solving serious social and economic problems in the countries of the world. Therefore, when overcoming the consequences of military actions, the implementation of state targets is an extremely effective approach.

5. Ensuring law and order after the end of the active phase of hostilities requires deep legal reforms and strategic planning. The main such priorities should be: professionalization of the security forces and digitization of their activities; development of cooperation with the community based on trust; elimination of risks of criminalization of society and politicization of power structures. An effective reform of the security forces should become the basis for stabilizing the country, contributing to economic recovery, integration into the European space and building a safe society.

The directions of further scientific research will be aimed at the further development of the implementation of state policy in the field of overcoming the consequences of military actions in Ukraine through the development of appropriate development strategies.

BIBLIOGRAPHY:

1. План для Ukraine Facility URL: <https://www.ukrainefacility.me.gov.ua/wp-content/uploads/2024/03/plan-ukraine-facility.pdf>.

2. Сайт Урядовий портал. Проект Плану відновлення України. URL: <https://www.kmu.gov.ua/storage/app/sites/1/recoveryrada/ua/governance.pd>.
3. Белай С.В. Державні механізми протидії кризовим явищам соціально-економічного характеру: теорія, методологія, практика : монографія. Х. : Національна акад. НГУ, 2015. 349 с.
4. Белай С.В. Дослідження державних правових механізмів протидії кризовим ситуаціям соціально-економічного походження. *Честь і закон*. 2013. № 4. С. 19-24.
5. Белай С.В. Дослідження механізмів правового регулювання у сфері протидії кризовим явищам соціально-економічного характеру. *Університетські наукові записки: часопис Хмельницького університету управління і права*. 2013. № 2 (46). С. 27-32.
6. Гель А.П., Семаков Г.С., Кондраков С.П. Судові та правоохоронні органи України : навч. посіб., К. : МАУП, 2004. 272 с.
7. Кузніченко С.О. Становлення та розвиток інституту надзвичайних адміністративно-правових режимів в Україні : автореф. дис. ... д-ра юрид. наук : 12.00.07; Харк. нац. ун-т внутр. справ. Х., 2010. 37 с.
8. Кузніченко С.О. Адміністративно-правовий режим воєнного стану : монографія. Х. : Право, 2014. 232 с.
9. Кизим М.О., Узунов В.В. Програмно-целевий підхід до державного управління соціальною напруженістю в регіонах країни: монографія, Х. : ІНЖЕК, 2007. 204 с.
10. Сайт Центру політико-правових реформ. Система правопорядку України після Перемоги. URL: <https://pravo.org.ua/systema-pravoporyadku-ukrayiny-pislya-peremogy/>.
11. Сайт Центру політико-правових реформ. Уряд схвалив План заходів з реформи органів правопорядку на 2023-2027 роки: куди рухається реформа органів правопорядку та прокуратури? URL: <https://pravo.org.ua/blogs/uryad-shvalyv-plan-zahodiv-z-reformy-organiv-pravoporyadku-na-2023-2027-roky-kudy-ruhayetsya-reforma-organiv-pravoporyadku-ta-prokuratury/>.
12. Запатріна І.В., Шатковська А.О. Досвід післявоєнного відновлення міст світу: уроки для України. URL: https://era-ukraine.org.ua/wp-content/uploads/2023/06/Doslidzhennia_Dosvid-pisliavoiennoho-vidnovlennia-mist.pdf.