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### **REGULATORY AND LEGAL SUPPORT FOR THE ACTIVITIES OF CERTAIN ANTI-TERRORIST UNITS OF THE SECURITY AND DEFENCE SECTOR OF UKRAINE**

**Ганна Турчанікова. НОРМАТИВНО-ПРАВОВЕ ЗАБЕЗПЕЧЕННЯ ДІЯЛЬНОСТІ ОКРЕМИХ КОНТРОТЕРОРЕСТИЧНИХ ПІДРОЗДІЛІВ СЕКТОРУ БЕЗПЕКИ ТА ОБОРОНИ УКРАЇНИ.** У статті на основі критичного аналізу чинного законодавства, що регулює суспільні відносини у секторі безпеки і оборони держави, розглянуто стан нормативно-правового забезпечення боротьби з тероризмом та організацію і форми взаємодії суб'єктів боротьби з тероризмом. У статті на основі критичного аналізу чинного законодавства, що регулює суспільні відносини у секторі безпеки і оборони держави, розглянуто стан нормативно-правового забезпечення боротьби з тероризмом та організацію і форми взаємодії суб'єктів боротьби з тероризмом.

Одним із ключових явищ, що унеможливує або ускладнює реалізацію національних інтересів та збереження національних цінностей України, є тероризм – суспільно небезпечна діяльність, яка полягає у свідомому, цілеспрямованому застосуванні насильства шляхом захоплення заручників, підпалів, убивств, тортур, залякування або інших посягань на життя чи здоров'я ні в чому не винних людей або погроз вчинення злочинних дій з метою досягнення злочинних цілей.

Діяльність центральних органів виконавчої влади, наділених владними повноваженнями у сфері боротьби з терористичною діяльністю, відповідно до їх компетенції та підслідності злочинів координується Службою безпеки України – державним органом спеціального призначення з правоохоронними функціями, який забезпечує державну безпеку України та здійснює "попередження, виявлення, припинення та розкриття кримінальних правопорушень проти миру та безпеки людства, тероризму".

Організація взаємодії та координація діяльності суб'єктів боротьби з тероризмом покладається на Антитерористичний центр при Службі безпеки України та здійснюється залежно від рівнів терористичної загрози шляхом обміну інформацією, координації дій суб'єктів боротьби з тероризмом. У разі встановлення рівня терористичної загрози "червоний" (загроза), "синій" (потенційна загроза) та "жовтий" (ймовірна загроза) у формі засідань Міжвідомчої координаційної комісії Антитерористичного центру при Службі безпеки України, а також координаційних груп при регіональних органах Служби безпеки України.

У разі встановлення рівня терористичної загрози "червоний (реальна загроза)" взаємодія суб'єктів боротьби з тероризмом здійснюється шляхом спільного виконання бойових завдань у формі проведення антитерористичної операції – комплексу скоординованих спеціальних заходів з попередження, запобігання та припинення терористичної діяльності, звільнення заручників, забезпечення безпеки населення, знешкодження терористів, мінімізації наслідків терористичної діяльності.

**Ключові слова:** національна безпека, тероризм, суб'єкти боротьби з тероризмом, Антитерористичний центр, службово-бойова діяльність, Національна поліція України, взаємодія.

**Relevance of the study.** According to the Constitution, Ukraine is recognised as a sovereign and independent, democratic, social and legal state [1, Art. 1], and Ukraine's sovereignty extends to its entire territory [1, Art. 2].

In turn, the protection of the sovereignty and territorial integrity of Ukraine, ensuring its

economic and information security are the most important functions of the state [1, Art. 17].

The President of Ukraine, as the head of state and guarantor of state sovereignty, territorial integrity, and observance of human and civil rights and freedoms [1, Art. 102], ensures state independence and national security [1, Art. 106, para. 1], and exercises leadership in the areas of national security and defence [1, Art. 106, para. 17].

Thus, the creation of an effective system and functioning mechanism for ensuring Ukraine's national security as the protection of state sovereignty, territorial integrity, democratic constitutional order and other national interests of Ukraine from real and potential threats [2, para. 9, part 1, art. 1] is a key element of state-building and preservation of the identity of the Ukrainian people, development and strengthening of Ukraine as a democratic, social and legal state, ensuring human rights and freedoms and decent living conditions.

These issues have become particularly relevant in the context of disintegration processes destabilising the state system, growing contradictions between the interests of different social groups and segments of the population, antagonistic intentions of the Russian Federation, encroachments on Ukraine's state sovereignty and attempts to overthrow the democratic constitutional order, which were particularly acute in 2013-2014.

One of the key phenomena that make it impossible or difficult to realise the national interests and preserve the national values of Ukraine is terrorism – a socially dangerous activity consisting in the deliberate, purposeful use of violence by taking hostages, arson, murder, torture, intimidation of the population and authorities or other attacks on the life or health of innocent people, or threats to commit criminal acts in order to achieve criminal goals [3, Art. 1].

The Cabinet of Ministers of Ukraine [3, Part 1, Art. 4] is responsible for combating terrorism as an activity aimed at preventing, detecting, suppressing and minimising the consequences of terrorist activities [3, Art. 1] and providing it with the necessary forces, means and resources.

**Recent publications review.** The study of problematic issues of ensuring the national security of Ukraine is devoted to the works of O. Bandurka, A. Voloshchuk, S. Husarov, O. Dolzhenkov, Y. Dubko, I. Zozulya, I. Kirichenko, V. Kovalenko, V. Konoplyov, O. Kopan, M. Kornienko, V. Krutov, S. Kuznichenko, V. Lipkan, I. Musienko, V. Nastiuk, V. Olefir, A. Podoliaka, M. Saakyan, O. Shaptala, O. Shmakov, O. Yarmysh and others.

The role of law enforcement bodies in ensuring national security is the subject of scientific research by Y. Allerov, S. Belyi, A. Berlach, G. Drobakha, R. Kaliuzhnyi, V. Kolpakov, O. Kryvenko, V. Laptii, O. Ostapenko, V. Petkov, S. Poltorak, A. Spasskyi, S. Yarovoi, H. Yarmaki.

The immediate theoretical basis for the study of the regulatory and legal framework of the service and combat activities of the security forces of Ukraine was the scientific research of V. Antipenko, Y. Ivanov, T. Zhovtenko, O. Konev, V. Mayorov, S. Pecherytsia, D. Savochnik, M. Semykin, M. Slipchenko, A. Spasskyi, D. Talalai, O. Shevchenko.

**The article's objective** is to critically analyse the current legislation regulating public relations in the state security and defence sector and the interaction of the actors involved in the fight against terrorism.

**Discussion.** The concept of terrorist activity under Ukrainian legislation covers a wide range of unlawful acts, namely planning, organising, preparing and carrying out terrorist acts, incitement to commit terrorist acts, violence against individuals or organisations, destruction of property for terrorist purposes; Organisation of illegal armed groups, criminal groups (criminal organisations), organised criminal groups to commit terrorist acts, as well as participation in such acts; recruitment, arming, training and use of terrorists; propaganda and dissemination of terrorist ideology; terrorist training; leaving and entering Ukraine for terrorist purposes; financing and other assistance to terrorism [3, Art. 1]. The above in turn implies the use of a certain range of subjects to combat activities aimed at preventing, detecting, suppressing and minimising the consequences of terrorist activities.

The breadth of the object and the wide range of subjects of the fight against terrorism, although regulated by the Law of Ukraine "On Combating Terrorism", which defines the legal and organisational basis of this fight and in its entirety creates the national system of combating terrorist activity as a set of subjects of the fight against terrorism and their capabilities in this area organised in accordance with the legislation of Ukraine [3, Art. 4; 4, para. 2, item 1], which is endowed with system-forming factors, includes the participation of central executive authorities within the limits of their competence, established by laws and other regulatory legal acts adopted on the basis thereof.

At the same time, a number of laws and regulations provide an interpretative definition of such a system: "a unified state system for preventing, responding to and suppressing terrorist acts and minimising their consequences" [5, para. 1]; "a nationwide system for combating terrorism" [6, R. 2; 4, para. 2, R. 1], which, in our opinion, leads to some inconsistency and ambiguity in the application of the law in the service and combat activities of counter-terrorism actors.

The formation of terminology is not the subject of our study, but at the same time, considering that the concept of "terrorist activity" is broader than "terrorist act" and "terrorism", we believe that subordinate legal acts should be harmonised with the provisions of the Law of Ukraine "On Combating Terrorism" and the definition of "national system of combating terrorist activity" should be used in law enforcement.

Undoubtedly, from a practical point of view, it is expedient to focus not so much on the fight against terrorism, which in principle refers to already identified terrorist groups, but rather on the identification of a certain type of activity as terrorist and countering it, which corresponds to the modern dimension of terrorism.

However, returning to the subject of the study and taking into account the above, the following questions arise: How does this range of actors coordinate their activities? What are the forms of interaction between these actors in the fight against terrorist activity?

The analysis of the current legislation and regulations leads to the conclusion that the activities of the central executive bodies vested with powers in the field of counter-terrorism in accordance with their competence and jurisdiction over crimes are coordinated by the Security Service of Ukraine, a special state body with law enforcement functions, which ensures the state security of Ukraine [7, Art. 1] and, in accordance with its tasks, provides "prevention, detection, suppression and disclosure of criminal offences against peace and security of mankind, terrorism..." [7, Part 2, Article 2].

The subjects of the direct fight against terrorism are Security Service of Ukraine; Ministry of Internal Affairs of Ukraine (National Police of Ukraine, National Guard of Ukraine, State Border Guard of Ukraine, State Emergency Service); Ministry of Defence of Ukraine; State Penitentiary Service of Ukraine; State Protection Service of Ukraine; central executive body implementing state tax policy, state policy in the field of state customs [3, Art. 4].

The Ministry of Internal Affairs of Ukraine, together with the National Police, organises the fight against terrorism by:

- preventing, detecting and suppressing crimes committed for terrorist purposes, the investigation of which falls within the competence of the National Police under Ukrainian law;
- providing the Anti-Terrorist Centre of the Security Service of Ukraine with the necessary forces and means during anti-terrorist operations;
- to ensure the effective use of forces and means during anti-terrorist operations [3, Part 2, Article 5].

In accordance with the provisions of the Law of Ukraine "On Combating Terrorism", the following tasks are assigned to the bodies directly involved in combating terrorism:

- cooperation to stop the criminal activities of persons involved in terrorism, including international terrorism, financing, supporting or committing terrorist acts and crimes committed for terrorist purposes
- exchange of information;
- promoting effective border control, control over the issuance of identity and travel documents in order to prevent their counterfeiting, falsification or illegal use;
- preventing the actions or movements of terrorists, terrorist groups or terrorist organisations, as well as persons suspected of committing terrorist acts or of being members of international terrorist groups or organisations;
- to prevent attempts by aliens with information on their involvement in international terrorist groups or organisations to transit through the territory of Ukraine [3, Part 1, Article 8].

Coordination of the activities of the unified state system for combating terrorist activities and counter-terrorist actors in the prevention of terrorist acts is entrusted to the Anti-Terrorist Centre, a permanent body under the Security Service of Ukraine [8, para. 1; 5, para. 5], which has significantly increased the coordination and coherence of the security and defence forces of Ukraine in the performance of counter-terrorist tasks.

The main tasks of the Counter-Terrorism Centre are:

- Development of conceptual frameworks and programmes for combating terrorism, recommendations aimed at increasing the effectiveness of measures to identify and eliminate

the causes and conditions that facilitate the commission of terrorist acts and other crimes committed for terrorist purposes;

- collecting, collating, analysing and evaluating information on the state and trends of the spread of terrorism in Ukraine and abroad in accordance with the established procedure
- organising and conducting counter-terrorist operations and coordinating the activities of bodies engaged in counter-terrorism and specific counter-terrorist operations;
- Organising and conducting command, staff and tactical special exercises and training;
- Participation in the preparation of draft international treaties of Ukraine, preparation and submission of proposals in accordance with the established procedure for the improvement of Ukrainian legislation in the field of counter-terrorism, financing of counter-terrorist operations by entities engaged in counter-terrorism, implementation of measures to prevent, detect and suppress terrorist activities;
- cooperation with special services, law enforcement agencies of foreign states and international organisations on counter-terrorism issues [3, Part 1, Article 7; 9, Clause 3].

The Counter-Terrorism Centre consists of an Interdepartmental Coordination Commission and Headquarters, as well as Coordination Groups and their Headquarters located at the regional offices of the Security Service of Ukraine.

The Interdepartmental Coordination Commission of the Anti-Terrorist Centre, which includes, inter alia, the Deputy Ministers of Internal Affairs of Ukraine and the Deputy Heads of the National Police, is directly responsible for coordinating the actions and interaction of actors in the fight against terrorist activities at the national level and for coordinating the activities of the functional subsystem of the unified state system for preventing, responding to and suppressing terrorist acts and minimising their consequences [5, para. 5].

Coordination groups at the regional offices of the Security Service of Ukraine, which analogously include representatives of the Main Departments of the National Police in the regions, are responsible for coordinating the actions and interaction of the actors in the fight against terrorist activities at the local level and for managing the territorial subsystems of the unified state system for preventing, responding to and suppressing terrorist acts and minimising their consequences [5, para. 5].

Depending on the level of terrorist threat, the interaction of counter-terrorism actors is built by:

1. If the level of terrorist threat is "grey" (possible threat):
  - Providing the Counter-Terrorism Centre with information on the causes and conditions contributing to the emergence and spread of terrorism, providing the Counter-Terrorism Centre with methodological support and recommendations for identifying and eliminating these causes and conditions;
  - Coordination of actions of the subjects of the fight against terrorism in order to expand cooperation with law enforcement bodies and special services of foreign countries, anti-terrorist structures of the UN, OSCE, NATO, EU, other international organisations involved in the fight against terrorism, on the basis of international agreements of the Anti-Terrorist Centre [5, para. 1, item 9].
2. If the terrorist threat level is set to "blue" (potential threat):
  - Providing the Counter-Terrorism Centre with information on the targets of possible terrorist attacks, on preparations for a terrorist act;
  - Coordinating the actions of the subjects of the fight against terrorism in order to verify the information on the probability of preparation or commission of a terrorist act by the Anti-Terrorist Centre. [5, para. 2, item 9].
3. In the event that the terrorist threat level is set at "yellow" (probable threat), by implementing the measures defined for the terrorist threat level "blue" (potential threat); and
  - ensuring the timely exchange of information between counter-terrorism actors on developments related to the threat of a terrorist act through the Counter-Terrorism Centre. [5, paragraph 3, subparagraph 9].
4. In the event that the terrorist threat level is set at "red" (real threat) by implementing the measures defined for the terrorist threat levels "blue" (potential threat) and "yellow" (probable threat), and
  - Providing the Anti-Terrorist Centre with forces and means to carry out an anti-terrorist operation;
  - Coordinating and organising measures to stop a terrorist act and the actions of units and forces involved in the implementation of such measures by the Anti-Terrorist Centre;

– Ensuring the participation of all or individual counter-terrorism subjects, forces and means in the implementation of the counter-terrorism operation by the Counter-Terrorism Centre;

– Ensuring the interaction of the subjects of the fight against terrorism with the relevant central and local executive authorities, local self-government bodies, military-civil administrations, enterprises, institutions, organisations, regardless of their subordination and form of ownership by the Counter-Terrorism Centre. [5, para. 4, item 9].

**Conclusions.** Summarising the above, it should be noted that the breadth of the object and the wide range of subjects of the fight against terrorism, although regulated by the Law of Ukraine "On Combating Terrorism", which defines the legal and organisational bases of this fight and in its entirety creates the national system of combating terrorist activity as a set of subjects of the fight against terrorism and its capabilities in this area organised in accordance with the legislation of Ukraine [3, Art. 4; 4, para. 2, item 1], which is endowed with system-forming factors, shall include the participation of central executive authorities within the limits of their competence, which shall be determined by laws and other regulatory legal acts adopted on the basis thereof.

The activities of the central executive authorities vested with powers in the field of combating terrorist activities in accordance with their competence and jurisdiction over criminal offences are coordinated by the Security Service of Ukraine, which is a special purpose state body with law enforcement functions ensuring the state security of Ukraine [7, Art. 1] and, in accordance with its tasks, provides "prevention, detection, suppression and disclosure of criminal offences against peace and security of mankind, terrorism..." [7, Part 2, Article 2].

The subjects of the direct fight against terrorism are Security Service of Ukraine; Ministry of Internal Affairs of Ukraine (National Police of Ukraine, National Guard of Ukraine, State Border Guard Service of Ukraine, State Emergency Service); Ministry of Defence of Ukraine; State Criminal Enforcement Service of Ukraine; State Protection Service of Ukraine; central executive body implementing state tax policy; state policy in the field of state customs.

The organisation of interaction and coordination of activities of counter-terrorist actors is entrusted to the Anti-Terrorist Centre of the Security Service of Ukraine and is carried out, depending on the level of terrorist threat, through exchange of information, coordination of actions of counter-terrorist actors (in the case of establishing the levels of terrorist threat "grey" (possible threat), "blue" (potential threat) and "yellow" (probable threat) in the form of meetings of the Interagency Coordination Commission of the Anti-Terrorist Centre of the Security Service of Ukraine and coordination of the activities of the Anti-Terrorist Centre of the Security Service of Ukraine.

If the level of the terrorist threat is set at "red" (real threat), the interaction of counter-terrorism actors takes place through the joint implementation of combat missions in the form of an anti-terrorist operation – a set of coordinated special measures aimed at preventing and suppressing terrorist activity, releasing hostages, ensuring public safety, neutralising terrorists and minimising the consequences of terrorist activity.

#### *Conflict of Interest and other Ethics Statements*

The author declares no conflict of interest.

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#### ABSTRACT

The article, based on a critical analysis of the current legislation governing public relations in the security and defense sector of the state, considers the state of regulatory and legal support in the fight against terrorism and the organization and forms of interaction between the fight against terrorism. The article, based on a critical analysis of the current legislation governing public relations in the security and defense sector of the state, considers the state of regulatory and legal support in the fight against terrorism and the organization and forms of interaction between the fight against terrorism. One of the key phenomena that makes it impossible or difficult to realize the national interests and preserve the national values of Ukraine is terrorism – a socially dangerous activity that consists in the deliberate, targeted use of violence by hostage-taking, arson, murder, torture, intimidation or other encroachments on the life or health of innocent people or threats to commit criminal acts in order to achieve criminal goals.

The organization of interaction and coordination of the activities of the subjects of the fight against terrorism is entrusted to the Anti-Terrorist Center of the Security Service of Ukraine and is carried out depending on the levels of terrorist threat by exchanging information, coordination of actions of the subjects of the fight against terrorism: "red" (real threat), "blue" (potential threat) and "yellow" (probable threat) in the form of meetings of the Interdepartmental Coordination Commission of the Anti-Terrorist Center of the Security Service of Ukraine, as well as coordination groups at regional bodies of the Security Service of Ukraine. In the case of establishing the level of terrorist threat "red" (real threat) interaction of the subjects of the fight against terrorism is through the joint implementation of combat missions in the form of anti-terrorist operation – a set of coordinated special measures to prevent, prevent and stop terrorist activities, release hostages, ensuring the security of the population, neutralizing terrorists, minimizing the consequences of terrorist activities.

**Keywords:** *national security, terrorism, subjects of fight against terrorism, Antiterrorist center, service and combat activity, National Police of Ukraine, interaction.*