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THE NATIONAL SECURITY FIELD UNDER CONDITIONS OF ARMED AGGRESSION OF THE RUSSIAN FEDERATION AGAINST UKRAINE IN 2022

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Abstract

This article touches upon the problem of organizing security space under the conditions of armed aggression of the Russian Federation against Ukraine in 2022. According to the understanding of the "security" concept, it is determined that the security space should put a state and its vital interests under protection from any internal and external threats. It is emphasized that in conditions of armed aggression, the central components of the security space should be international (global) security and national security. The main areas of international (global) security should include the development and control of weapons, the fight against international terrorism, the development by the international community of effective mechanisms for countering modern global security challenges (proliferation of mass destruction weapons, namely nuclear weapons). Inclusion of military, state, information and cyber security is proposed as the main areas of national security.

Key words

security, security space, international (global) security, national security, military security, information security.

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1. Introduction

During recent decades, society has been observing a rapid change in the world as well as the destruction of traditional ideas about international security and forms of interaction between states (Philipps, Braun, 2020). Multilateral cooperation institutions are experiencing a deep crisis. International law and other non-forceful means of regulating international relations are losing their effectiveness, which results in a demand for strict ruling to constantly grow. Nontraditional threats are multiplying (Mizutori, 2021), and those that have been on the agenda for a long time, as, for example, the proliferation of nuclear weapons, are becoming more acute (Mižnarodnij..., 2019). The beginning of the armed aggression of the Russian Federation (hereinafter referred to as the RF) on February 24, 2022, against Ukraine, has become the most serious aggravation of these problems since the end of the Second World War. Under such conditions, the priority is to ensure the integrity of our state, preserve sovereignty, and create conditions under which every person, every citizen of Ukraine or another state will feel safe on the territory of our country [Ukraine]. After all, the development of Ukraine as a sovereign, independent, democratic, social, and legal state is impossible without the establishment of democratic principles, and the proper provision of human and citizen rights and freedoms. Therefore, today the problem of creating a safe space for the state is acute. Such a space is vital not only for Ukraine and Europe but also for the entire civilized world.

2. Materials and methods

The data of international organizations, in particular, the study of the International Telecommunication Union, United Nations Conference on Trade and Development (UNCTAD), World Economic Forum, ISACA, Microsoft company, IBGroup, McAfee, CISCO, as well as the materials of Interpol and Europol reports have been analyzed.

The research methodology and the achieved results are based on the usage of the following general and special cognition methods: dialectical, systemstructural, methods of analysis and synthesis.

3. Results and discussion

The absence of threats to fundamental human interests, such as life, health and well-being, creates a sense of security in people. Security is the basic need of any person, until a person feels safe. Without it, it is impossible to take care of the needs of a higher order, i.e. social, spiritual, and cultural ones. By contrast, feeling safe, a person strives to deepen social ties, achieve self-realization, etc. It is clear that the category of "absolute safety" is purely theoretical and is probably a utopia concept, because, for example, no one can be safe from an accident or a carelessly committed crime. In addition, the level of personal security depends to a large extent on the behavior of the individual him/herself, his/her personal qualities, etc. However, human security also depends on those threats that objectively exist in society, which the state should counter.

Security is a rather vast concept. During recent decades, there has been a trend towards a humancentric approach in the security space. Simultaneously, this trend fully relies on the concept of national security, which is focused on protecting the state from external threats, even strengthening and detailing security itself. The idea of primarily securing the rights and freedoms of individuals and society enables both a focused and holistic way of interpreting the problems and challenges humanity faces today. These include the pandemic that has covered the whole world, the climate crisis, social injustice, the threats that arise in cyberspace, physical violence, and armed aggression, which are the realities nowadays. This list can be continued because it is only the "tip of the iceberg" of threats in the security space. Already judging by this, it can be stated that these threats have long ceased to be the problems of one or several states, but have a transnational character, although, of course, they have certain specificities depending on the region.

According to the etymology of the word, the definition of "security" is "the absence of a threat", that means safety of the individual, society and the state as a whole. In a general sense, security is a condition of protecting vital state interests from any internal and external threats. S. Makinda (1998) defined security as the preservation of norms, rules, institutions and values of society. All institutions, principles and structures related to society, including its people, must be protected from military and non-military threats. "Preservation" is an important component of this definition and it implies conscious, deliberate and determined steps and actions. Thus, the perception of a society's leadership determines its actions and directs its efforts, which is evident in the peculiarities of that society's security program. The core of the "security" concept can be considered as the activity of people, society, the state, and the global community of peoples to identify, prevent, weaken, and avert a threat capable of destroying them, depriving them of material and spiritual values, causing irreparable damage, and blocking the ways of progressive development (Ciganov, 2006).

As for the security space, if judging from the meaning of "security" concept itself, a state of the vital country's interests protection both from any internal threats and from any external threats should be created. Therefore, it should include several aspects. During peacetime, for example, those are primarily public order, fire safety, medical assistance, etc. Since February 24, 2022, it has become clear that the security space should be broader in terms of its content. And nowadays, international (global) and national security space.

International (global) security covers the most urgent directions and problems of human development and means its protection from threats capable of destabilizing the situation in the world or its key regions, causing a global crisis. In a broad sense, international (global) security is interpreted as a system of international relations which is based on the states-participants' compliance with the generally recognized principles and norms of international law. This also excludes the resolution of disputed issues and disagreements between the countries with the help of force or threats of force implementations (Smolianiuk, 2016). In general, international (global) security is a form of protection from threats to the vital interests of humanity (in general), states, interstate and regional associations, which ensure the possibility of acting according to the country's interests (Danik, 2008). Currently, we have witnessed the dire consequences of one country's non-compliance with the principles and norms of international law and the actual creation of "quasi-disputed issues" that are later resolved by force.

As it turns out, today the central areas of international (global) security issues should be the development and control of weapons, the fight against international terrorism, as well as the invention of effective mechanisms for the entire international community to face modern global security challenges¹. Of particular concern is the possibility of the use mass destruction weapons that could be done by the aggressor state. At the same time, the problem of the possible nuclear weapons use is particularly acute. Firstly, Kremlin's statements indicate the transfer of deterrence forces, which also include nuclear weapons, to a special combat duty regime (February 27, 2022), and secondly, they confirm the possibility of using such weapons if there is a threat to the existence of the RF (22.03.2022). In addition, taking into account the situation that has developed in connection with the armed aggression of the RF, the issue of economic and social stability is reaching a new severity level not only when it comes to one state's affairs, but also in terms of the whole world. This should be analyzed taking into account the matter's connection with the globalization of the financial system and the diversification of quantitative and qualitative indicators of the world trade process and market structure. Since February 24, 2022, the problem of migration has gained new momentum, which currently has signs of global human movements², whose consequences can have fundamental results for both donor and recipient countries.

As for national security, its external dimension is important for clarifying the national security essence, that is, the state and conditions of the country's society development in the international environment (Černâk, Pervij, 2019). In Ukraine, the concept of "national security" has gained crucial significance since 2014, and since February 24, 2022, every person, not only in Ukraine but also in the whole world, is thinking about the mentioned issue. For the majority, national security is associated only with the activities of special services, equated with state defense, etc. (Černâk, Pervij, 2019). And although we should not forget about the economic, political, moral and ethical and other non-force aspects of ensuring national security, today we can state that in the modern world, unfortunately, force methods remain the most effective, in particular, the military is a powerful lever power of the state, armaments and availability of mass destruction weapons.

In a broad sense, national security is an indicator of the society and government's ability to protect national interests independently or together with other friendly countries (peoples, nations), to restrain or eliminate internal and external threats to national sovereignty, territorial integrity, social order, economic development, other important elements of spiritual and material life activity, the degree of individual interests, society and the state protection from external and internal threats (Sosnin..., 2021). At the legislative level, national security is defined as the guarding of state sovereignty, territorial integrity, democratic constitutional system and other national interests of Ukraine from real and potential threats. Since June 21, 2021, the law has not defined national security objects separately but listed the components of the state in Art. 3, revealing the principles of state policy, which should be aimed at protection. This way, the specified legislative wording repeats the meaning of the concept of "national security objects" as it is stated in the Law of Ukraine "On the Basics of National Security of Ukraine". Currently, state security is distinguished as a separate area. In paragraph 4, part 1 of Art. 1 of the Law of Ukraine "On the National Security of Ukraine", state security is defined as the protection of "state sovereignty, territorial integrity and democratic constitutional system and other vital national interests from real and potential threats of a non-military nature". In

¹ Of course, the protection of the environment should be in focus as well as illegal drug trafficking, and the prevention and settlement of ethnopolitical conflicts, and the preservation of cultural diversity in the modern world, ensuring the observance of human rights, space exploration, and the rational use of the Earth's subsoil and the resources of the World Ocean, and others

² As of March 22, 2022, the number of Ukrainians who have

left Ukraine since the beginning of the Russian armed aggression is 3,528,346 (Kìl'kìst' bìžencìv z ..., 2022); every fourth Ukrainian was forced to leave his home (Malloch-Brown, 2022).

fact, nowadays, state security is a narrower concept than national security.

Regarding the definition of other security types which compose national security as a whole, there is a diversity among views regarding the differentiation of individual types (directions) of such security. We second the opinion that it is firstly advisable to single out those types (components) that are directly defined in the normative legal acts of Ukraine (Doronin, 2020).

Traditionally, economic and informational security are distinguished as separate types of national security, since the importance of their provision is emphasized by the provisions of Part 1 of Art. 17 of the Constitution of Ukraine. According to the provisions of Part 4 of Art. 3 of the Law of Ukraine "On the National Security of Ukraine", which defines the principles of state policy in the national security and defense spheres but does not provide an exhaustive list of individual security types that compose national security, military, foreign policy, state, economic, information, environmental and cyber security are distinguished in Ukraine, etc. That means, in fact, that the legislator does not limit the provided list.

Today, military security comes to the fore for Ukraine. The term "military security" is actually considered by the legislator as a dichotomy with the term "state security", distinguishing the difference only by the nature of the threats. In particular, military security is considered to be the protection of "state sovereignty, territorial integrity and the democratic constitutional system and other vital national interests from military threats" (clause 2, part 1, article 1 of the Law of Ukraine "On National Security of Ukraine"). That is, the objects of protection are the state itself and its components, but unlike state security, the purpose of protection is the presence (existence) of threats of a military nature. In the future, military security is terminologically used in Art. 28 of the specified Law, which regulates the development and adoption of the Military Security Strategy as a planning document (Doronin, 2020).

Obviously, the understanding of military security should be based on the understanding of the concepts of "aggression" and "military power", which are threats of an immediate or prospective nature. This issue became particularly relevant on February 24, 2022, when our state faced open armed aggression from the RF. The very concept of "aggression" in international law includes the use of armed force by one state against another state or people (Bojko, 2010). Among the types of actions considered as manifestations of aggression, 5 out of 7 directly involve the use of armed forces (Opredelenie agressii ..., 1974). In addition to the "armed forces", the use of other "groups of violent nature" is also considered aggression (Doronin, 2020). Under any conditions, aggression is carried out by the state (its relevant bodies). It is clear that the classic "instrument" of aggression is the armed forces of the state, understood as military formations of "regular" and "irregular" nature. Under such conditions, ensuring security in the military sphere is primarily aimed at preventing, diverting, and repelling aggression against the state.

Also, one of the important components of national security today is information security and cyber security. Thus, on December 28, 2021, at the level of the Decision of the National Security and Defense Council of Ukraine, which was approved by the Decree of the President of Ukraine, it was determined that the information security of Ukraine is defined as an integral part of the national security of Ukraine, the state of country's sovereignty, territorial integrity, democratic constitutional system, other vital interests of an individual, society and the country's itself protection. Among the constitutional rights and freedoms of a person are the following: right to collect, store, use and distribute information as well as access to reliable and objective information. This should be properly ensured. There also exists an effective system of protection and countermeasures against harm due to the spread of negative information influences, including coordinated dissemination of unreliable information, destructive propaganda, other information operations, unauthorized dissemination, use and violation of the integrity of information with limited access.

It should be noted that in the 21st century the process of using the worldwide Internet network and the latest technologies is gaining tremendous momentum. It was particularly significantly enforced from the end of 2019 to the beginning of 2020, which coincides with the beginning of the COVID-19 pandemic. In general, this is a manifestation of technical progress, digitization of the modern world, and, on the one hand, it is an undoubted achievement of mankind. On the other hand, such a process is accompanied by a number of negative manifestations, such as a low level of security culture, an increase in the number of online users who are dependent on digital infrastructure, the spread of unwanted content (in particular, that promotes violence, incites enmity, contains calls to armed aggression, etc.), there is an increase in cases of cyber fraud, data leaks, unauthorized access to information. There is rapid, global development of cyber terrorism. Also, crime in the field of banking is increasing, the number of unauthorized interventions in the work of computers is increasing. That is, the significant criminalization of cyberspace is obvious

and it requires an adequate response from the state, the development of an effective strategy for countering informational threats, especially in conditions of armed aggression.

According to Interpol, cybercrime is one of the fastest growing areas of crime (Interpol, 2018). This is confirmed by the reports of many organizations, for example (International Telecommunication Union (ITU), United Nations Conference on Trade and Development (UNCTAD), World Economic Forum, ISACA, Microsoft company, IBGroup, McAfee, CISCO, etc. In particular, the European Union Agency for Law Enforcement Cooperation (Europol) Internet Organized Crime Threat Assessment (IOCTA) 2021 report states that the exceptional COVID-19 crisis has led to an increase in cybercrime in all its forms, while shadow economy contributes to the spread of crime. It is noted that the accelerated digitization associated with the pandemic has significantly influenced the development of a number of cyber threats, in particular the following are highlighted: ransomware affiliate programs allow a larger group of criminals to attack large corporations and government institutions, threatening them with multi-level extortion methods, such as DDoS attacks; mobile malware is evolving with attackers trying to bypass additional security measures such as two-factor authentication; online shopping has led to a dramatic increase in online fraud; outspoken, self-created material is of increasing concern and is also distributed for profit; criminals continue to abuse legitimate services such as VPNs, encrypted communication services and cryptocurrencies (Europol, 2021).

The level of cybercrime is increasing in Ukraine as well. Thus, as of October 2019, it was established that the number of information crimes had increased by 2.5 times over the past five years (Za ostannì..., 2019). The growing trend of cybercrimes continues. Thus, during the same four months of 2021, compared to 2020, the number of cybercrimes increased by 25%; more than 1,100 incidents were recorded (Kil'kist' kiberzločiniv ..., 2021). Since February 24, 2022, fraudulent activities using the Internet have been observed, for example, in the field of volunteer assistance to both the civilian population and the Armed Forces of Ukraine (hereinafter – the Armed Forces). In addition, the unauthorized dissemination, both intentionally and due to carelessness, of information about the Armed Forces poses a serious threat to the national security of Ukraine. So there is every reason to strengthen information security in Ukraine.

As for the definition of the term "information security" itself, it is provided at the legislative level in para. 2, paragraph 13 of the Law "On the Basic Principles of the Development of the Information Society in Ukraine for 2007-2015", and is defined as a state of protection of the vital interests of a person, society and the state, in which harm is prevented due to: incompleteness, untimeliness and implausibility of information that is used; negative information impact; negative consequences of the usage of information technologies; unauthorized distribution, use and violation of integrity, confidentiality and availability of information. In addition, as already noted, the information security of Ukraine is an integral part of the national security of state.

The protection of the Ukrainian information space from destructive hostile information activities has been gaining relevance since 2014, and since February 24, 2022, the relevance of such protection has increased many times. Today, this is one of the central tasks that state authorities are facing, in particular, the security sector. Still, a significant problem is the comprehensive counteraction to destructive information activity, which is carried out either with the help of internal subjects of information activity, or through information channels whose owners are not directly subjects (residents) of Ukraine, but at the same time carry out such activities in the country (foreign social services)

State authorities, in particular, counterintelligence and law enforcement agencies, take measures to counter hostile information activities within their powers, but in many cases their actions are limited due to a number of factors. One of the important reasons for the lack of effectiveness is the imperfection of the normative and legal framework that would regulate countering informational subversive activities against Ukrainian statehood. It should be noted that since the beginning of the armed aggression of the Russian Federation, the Ukrainian legislator has significantly improved the situation in this area. Thus, a number of significant reforms were made to the Criminal Code of Ukraine (hereinafter referred to as the Criminal Code). In particular, criminal liability is provided for collaborative activity (Article 111-1 of the Criminal Code) and unauthorized dissemination of information about the sending, weapons transfer, armaments and military supplies to Ukraine, the movement, transfer or deployment of the Armed Forces or other military forces formed in accordance with the laws of Ukraine formations, committed under conditions of war or state of emergency (Article 114-2 of the Criminal Code of Ukraine). Such changes should have a significant impact on ensuring the protection of Ukraine's information space. In particular, in the context of ensuring information security, criminal liability has been established for public denial by a citizen of Ukraine of armed aggression against Ukraine, establishment and approval of the

temporary occupation of part of the territory of Ukraine; for public appeals by a citizen of Ukraine to support the decisions and/or actions of the aggressor state, armed formations and/or the occupation administration of the aggressor state; for cooperation with the aggressor state, armed formations and/ or the occupation administration of the aggressor state; for non-recognition of the extension of the state sovereignty of Ukraine to the temporarily occupied territories of Ukraine (Part 1 of Article 111-1 of the Criminal Code); for implementation of propaganda by a citizen of Ukraine in educational institutions, regardless of the types and forms of ownership, with the aim of facilitating the implementation of armed aggression against Ukraine; for establishment and confirmation of the temporary occupation of part of the territory of Ukraine; for avoiding responsibility for the implementation of armed aggression against Ukraine by the aggressor state, as well as for actions of citizens of Ukraine aimed at on the implementation of education standards of the aggressor state in educational institutions (Part 3 of Article 111-1 of the Criminal Code); for organizing and conducting events of a political nature, carrying out information activities in cooperation with the aggressor state and/or its occupying administration, aimed at supporting the aggressor state, its occupying administration or armed formations and/ or at its avoidance of responsibility for armed aggression against Ukraine, under absence of treason signs, active participation in such activities (Part 6 of Article 111-1 of the Criminal Code). It should be emphasized that the Note to Art. 111-1 of the Criminal Code of Ukraine defines that in part 1 of Art. 111-1 of the Criminal Code the public is considered the distribution of appeals or expressions of objection to an unspecified circle of persons, in particular on the Internet or with the help of mass media. In addition, the legislator has a rather broad understanding of the concept of "political measures" (Part 6 of Article 111-1 of the Criminal Code). In particular, these can be congresses, meetings, rallies, marches, demonstrations, conferences, round tables, etc. It is worth noting that the legislator does not limit the scope of such measures, which, on the one hand, will enable law enforcement agencies not to limit, daresay, "their possibilities" when qualifying actions; on the other hand, again we are dealing with an evaluative concept that under certain conditions, can be interpreted very broadly. The legislator also clarifies what constitutes "information activity" (Part 6 of Article 111-1 of the Criminal Code), namely, it is suggested that this activity should be understood as the creation, collection, receipt, storage, use and distribution of relevant information. In addition, the legislation also provides for responsibility for the dissemination of certain information committed during a state of war or state of emergency (Article 114-1 of the Criminal Code). Such information includes information related to the sending, movement of weapons, armaments and military supplies to Ukraine, including their movement through the territory of Ukraine, if such information was not made publicly available by the General Staff of the Armed Forces of Ukraine or the Ministry of Defense of Ukraine or in official sources relevant departments of partner countries; the movement or location of the Armed Forces of Ukraine or other military formations formed in accordance with the laws of Ukraine, if it is possible to identify them on the ground, if such information was not made publicly available by the General Staff of the Armed Forces of Ukraine. It is clear that such restrictions are aimed at ensuring the national security of Ukraine.

Other criminal law regulations also provide for liability for certain types of subversive information activities. In particular, these are the norms established in Part 2 of Article 109, Article 110, Article 111, Article 258-2, Article 258-5, Article 295, Article 436 and 436-1, Part 2. Article 442 of the Criminal Code of Ukraine. However, certain difficulties arise in the practice of their application, mainly, because of too broad wording, which seriously complicates proving the fact of committing a crime.

4. Conclusion

A human-centered approach in the security space is justified, since such an approach is fully consistent and negotiated. It strengthens the concept of national security, which is focused on protecting the state from external and internal threats.

The security space of the state should create all vital state interests protection condition from any external and internal threats. One of the main components of the security space under the current circumstances of an armed aggression of the Russian Federation against Ukraine should be international (global) security and national security.

International (global) security is a form of protection of vital interests of humanity (in general), states, interstate and regional associations, which ensures the possibility of the realization of these interests. Under the circumstances of an armed aggression, the central directions of international (global) security are the development and control of weapons, the fight against international terrorism, the development by the entire international community of effective mechanisms for countering modern global security challenges, especially such as the possible use of mass destruction weapons (nuclear weapons).

The directions of national security of Ukraine are the following: military, foreign policy, state, economic, information, environmental, cyber security, etc. Under the armed aggression, the central directions of national security should be military, state, information and cyber security.

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