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Summary

The article deals with the system of legal support for operational and investigative counteraction to crimes against public safety by criminal police. The author has classified the normative-legal acts regulating the activity of criminal police in combating crimes against public security, and has determined the directions for improving the legal support of operative-investigative counteraction to these crimes. He has proposed to expand the content and scope of improvement of the legal basis of this type of activity by criminal police.

Ключові слова: злочини проти громадської безпеки, кримінальна поліція, оперативно-розшукова протидія, законодавчо-правовий акт, стратегія

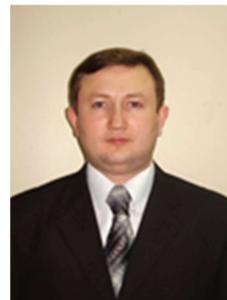
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CONTENTS AND NATURE OF OPERATIONAL ACTIVITIES OF THE STATE BODY OF SPECIAL PURPOSE WITH LAW ENFORCEMENT FUNCTIONS

Юліана Найдъон, Олександр Шамара. ЗМІСТ ТА СУТНІСТЬ ОПЕРАТИВНОЇ ДІЯЛЬНОСТІ ДЕРЖАВНОГО ОРГАНУ СПЕЦІАЛЬНОГО ПРИЗНАЧЕННЯ З ПРАВОХОРОННИМИ ФУНКЦІЯМИ. Однією із нагальних проблем наукового забезпечення оперативної діяльності державного органу спеціального призначення з правоохоронними функціями є створення її єдиної теорії, основоположними засадами якої є теоретико-правове розуміння останньої, визначення її сутності та змісту, формування методологічних підходів до її побудови.

Стаття присвячена розгляду поняття оперативної діяльності державного органу спеціального призначення з правоохоронними функціями як основоположної категорії відповідної теорії та практики. Вивчення та узагальнення практики існування досліджуваного явища стало методологічною основою виведення поняття оперативної діяльності. Виведено істотні ознаки, притаманні оперативній діяльності державного органу спеціального призначення з правоохоронними функціями, що лягло в основу вироблення відповідного поняття.

Зроблено висновок, що науковці різних історичних періодів серед інших видів діяльності, що мають здійснювати органи державної безпеки для виконання покладених на них завдань, виокремлюють певний вид негласної діяльності – оперативної, що здійснюється із застосуванням

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спеціальних сил, засобів, методів для протидії розвідувально-підривній, терористичній та іншій протиправній діяльності.

Оперативна діяльність є невід'ємною складовою забезпечення уповноваженими оперативними підрозділами державного органу спеціального призначення з правоохоронними функціями державної безпеки.

Під оперативною діяльністю Служби безпеки України запропоновано розуміти негласну діяльність у сфері забезпечення державної безпеки, що здійснюється уповноваженими оперативними підрозділами державного органу спеціального призначення з правоохоронними функціями шляхом реалізації наданих їм положеннями чинного законодавства прав у сфері контррозвідувальної та оперативно-розшукової діяльності, спрямовану на виявлення, попередження та припинення розвідувально-підривної та іншої протиправної діяльності іноземних спеціальних служб, окремих організацій, груп та осіб, а також усунення причин та умов, що сприяють виникненню загроз державній безпеці України.

Ключові слова: оперативна діяльність, контррозвідувальна діяльність, оперативно-розшукова діяльність, конспірація, розвідувально-підривна діяльність, парадигма.

Problem statement. The current stage of building the national statehood of Ukraine is characterized by a complex socio-political and economic state of development of our country. After all, fundamentally new threats caused by the transformation of technology, the specific social, economic and political conditions of development of the modern world community, affect the nature and features of the development of a secure environment, in which Ukraine needs to build a new system of relations between citizen, society and state. Combined, integrated military-political and economic confrontations in the form of a relentless, often hidden conflict, should be considered particularly dangerous in the context of the above. Such was the present-day external threat, manifested in: military aggression; conducting subversive, subversive, sabotage activities aimed at inciting ethnic, inter-confessional, social hatred and hatred, separatism and terrorism; creation and full support of military quasi-entities in the temporarily occupied territory of the Donetsk and Luhansk regions; occupation of the territory of the Autonomous Republic of Crimea and the city of Sevastopol; destabilization of the situation in the Baltic-Black Sea-Caspian region; conducting trade, economic and information-psychological war.

This has caused not only a significant downturn in Ukraine's economy, unstable socio-political situation in the country, but also numerous casualties, among which, according to a United Nations report of 13 June 2017, recorded 1,090 killed and 23,966 injured in the fighting [13]. The Office of the United Nations High Commissioner for Human Rights estimates the total number of victims of the conflict in Ukraine at 40-43 thousand from 14 April 2014 to 31 January 2019, including 12,800-13,000 dead [14].

External aggression against Ukraine has become a widespread test of strength for our security and defense sector, the results of which, unfortunately, do not fully meet the current needs of counteracting the conglomerate of the armed conflict and its continuing concomitant phenomenon – the activation of illegal encroachments on the national security of the country. The low efficiency of efforts of the national security and defense sector to overcome this phenomenon is caused by imperfection of the current legislation and institutional system, inefficiency of the applied theory and practice approaches to the organization of the process of detection and response to the real and potential threats to the state security of Ukraine, which is achieved, special purpose body with law enforcement functions of operational activity as a component of national security. Despite the fact that operational activity as a theoretical, legal and practical category is used in normative-legal acts, scientific achievements and practical materials of counterintelligence and operational-search activity, its theoretical and legal definition has not found adequate fixing. This gives rise to ambiguity in the understanding of the essence, content, purpose, objectives and fundamental principles of the theory and practice of operational activity of a state special purpose body with law enforcement functions, which can significantly affect the implementation of the Security Service of Ukraine against the illegal assault by foreign special services and organizations on the state security of Ukraine.

Given the foregoing, theoretical and legal and practical awareness of the phenomenon of operational activity of the state special purpose body with law enforcement functions requires a thorough scientific support, based on a system of clear, deeply reasoned concepts and categories, which should be applied in the relevant scientific and legal laws, acts, etc. Therefore, one of the urgent problems of scientific support of the operative activity of a state special purpose body with law enforcement functions is the creation of its unified theory, the fundamental basis of which is a theoretical and legal understanding of the latter, the definition of its essence and content, the formation of methodological approaches to its construction. Develop-

ing the concept of operational activity of a state special purpose body with law enforcement functions has not only scientific relevance that will contribute to the development of relevant theory, but also practical, which consists in the need to develop a unified approach to understanding the practice of this activity, which will promote awareness of its functional purpose logic. of constituent elements.

Analysis of publications that started solving this problem. The problems of legal and organizational support for the detection, prevention and cessation of reconnaissance and other illegal activities are the subject of research by many scholars of different historical periods, including: O.M. Bandurka, O.F. Bantyshev, V.O. Biletsky, O.M. Dzhuzha, P.S. Dmitriyev, O.F. Dolzhenkov, A.P. Zakalyuk, O.G. Kalman, O.O. Kvasha, M.I. Kamlyk, I.P. Kozachenko, V.O. Kozeniuk, O.V. Kyrychenko, S.V. Korniyakov, O.M. Kostenko, V.A. Lipkan, O.S. Lipkan, V.K. Lysichenko, M.M. Lytvyn, O.M. Lytvynov, V.P. Mezhyvoy, V.G. Pylypchuk, I.V. Servetskiy, M.O. Shylin, O.M. Yurchenko and others. At the same time, the systematic analysis of scientific achievements, dissertation researches, educational-methodical literature, devoted to legal and organizational bases of counteraction to illegal encroachment of foreign special services, individual organizations, groups and persons on the state security of Ukraine, testifies to fragmentary research of problems of definition of concept, essence and change operational activities of a state special purpose body with law enforcement functions, which necessitates the need for a separate study in a certain direction.

The **article's objective** is to study the nature and content of the operational activities of the Security Service of Ukraine as a component of counteraction to terrorist, intelligence, subversive and other illegal activities and the formation of the corresponding concept.

Basic content. Scientific awareness of the phenomenon of operational activity, as an effective tool for identifying potential threats to state security and preventing their transformation into real, necessary for the development and implementation of a new paradigm of the activity of the state special purpose body with law enforcement functions in the field of state security as a modern special service, definition of its modern special service goals and objectives. Equally important is the issue of improving the practical foundations of the activity of the state special purpose body with law enforcement functions, which, given the current threats to state security, requires the development of fundamentally different approaches to the tactics of tacit detection and prevention of intelligence, subversion, terrorist activity and other activities. of the state special purpose body with law enforcement functions not for the future criminal procedural perspective, but for exposing potential thunderstorms security.

Taking into account the stated and urgent need to overcome the terrorist threat, growing organized crime and preserve the territorial integrity of Ukraine, the problems of improving the legal and organizational support to counteracting terrorist, intelligence, subversive and other illegal activities of foreign individuals, special groups and special forces are of particular importance. Of course, the above mentioned concerns the Security Service of Ukraine as a special service capable of effectively protecting state sovereignty, constitutional order and territorial integrity of Ukraine. Given the need for a conceptual revision of the essence and content of the activities of the state special purpose body with law enforcement functions, as a modern special service, it is advisable to start a new paradigm, the basic basis of which will be put forward a scientific idea, as a form of reflection in thinking a new understanding of the objective activities of special services in the field of state security [1, p. 112]. Thus, the scientific idea in the context of the above should be to understand the need to define in theory and practice a conceptually new approach to the functional designation of national special services in counteracting threats to state security, as well as to distinguish, at the legislative and organizational levels, the activities of special services, the essential features of which are fundamentally different. law enforcement agencies. The hypothesis, as a materialized expression of a scientific idea put forward to explain the conceptually new approaches to the activity of a state special purpose body with law enforcement functions in the field of state security, is the existence of a special type of activity of special services of Ukraine, which is governed by the current legislation, the essence of which lies in the potential threats to state security through the use of a system of special means and methods in a secret manner.

The analysis of dissertation research, monographs, separate scientific achievements, devoted to the problems of legal and organizational support of operative activity of different historical periods, shows that the latter, as a theoretical and applied category, appeared during the activity of the USSR state security bodies, as a fundamental component of the activity of state security bodies. The essence of operative activity was the undercover (conspiratorial) detection, preven-

tion and cessation of intelligence and subversive attacks on state security through the use of special forces and means, forms, methods. Scientific studies of counter-intelligence, terrorist, and other illegal activities in the post-Soviet period testify to the recognition of the existence of a certain type of activity, operative, inherently operative units, which has a non-covered character, carried out using special forces, means, methods and only its inherent features, that differentiate it from other activities such as administrative, management, business, etc.

Regarding this, it can be concluded that scientists of different historical periods, among other activities that must be performed by the state security authorities to perform their assigned tasks, identify a certain type of dirty activity – operational, carried out with the use of special forces, means, methods to counteract intelligence, subversive, terrorist and other illegal activities.

In order to ensure a comprehensive study of the concept of operational activity, it is advisable to find out the meaning of the words that form it, that is, to interpret it as a way of interpreting the rules of law. Its essence is to clarify the meaning of a rule of law through a grammatical analysis of its verbal formulation, first of all, to determine the meaning of each word and expression used in the normative order [2, p. 205]. Against this background, it is necessary to analyze such categories as "operational" and "activity". Thus, the term "operative" is quite common in the specialized scientific literature of different historical periods, practice materials for the detection, prevention and cessation of reconnaissance and other illegal activities. In general, the term "operational", according to the analysis of scientific achievements, scientific and educational literature, is used in many areas of the state. This has been reflected in different approaches to interpreting its meaning, including: 1) associated with surgery; surgical 2) related to military operation; 3) the one who directly accomplishes something, performs a certain task [3, p. 845]; 4) is able to correctly and quickly perform certain practical tasks; effective [4, p. 704]. The very word operability comes from the Latin "operatio" – an action aimed at accomplishing any task [5]. In view of the foregoing, we can conclude that, in the conventional sense, "operational" is effective in relation to certain tasks. In such a case, the use in the provisions of applicable law that constitutes the legal basis for the activity of a state special purpose body with law enforcement functions of the phrase "operational units", "operational means", "operational accounting", etc. is justified and should be interpreted as units, means, accounting, etc., related to the performance of the tasks assigned to the Security Service of Ukraine.

An etymological analysis of the word "activity" shows that the category is fundamental to a wide range of humanities, such as philosophy, history, psychology, etc., because it allows us to understand the phenomena of social life in their functional role and genesis. This creates a diversity of approaches to the content that fits into the concept of activity. In a general sense, activity is defined as the application of one's work to something; work, actions of people in any field. [6]. In general, it should be noted that the category of "activity" is generated by classical German philosophy, in which the latter reflected spiritual, ideal processes. In essence, the basis of this use was the understanding of the activity of G.W.F. Hegel, where the term is used in the triad "goal – activity – material". Activity is what translates the goal (objective but perfect) into the material (also objective but real). Thus, G.W.F. Hegel considered activity as a process of realization of the goal, transformation of the ideal into material [7, p. 312-327]. In dialectical materialism, activity was understood as an expedient action or system of human action. Subsequently, the requirement of consciousness was added to this classic [8]. In terms of sociology, the concept of "activity" has traditionally been synonymous with the term "action", psychology, in the general sense, defines activity as a conscious and purposeful process, the basis of which are the forces and factors that induce a person to a certain activity. At the same time, the most philosophical basis for understanding the concept of activity, consisting of: purpose, need, result and direct process of transition from ideal to material will become the basis for developing an understanding of the concept of operational activity of a state special purpose body with the law enforcement functions of Ukraine.

In order to determine the understanding of the operational activity of the Security Service of Ukraine, it is advisable to consider the content of the activity of a state special purpose body with law enforcement functions, based on which the understanding of the activity is taken as a set of interrelated actions, the elements of which are: purpose, needs, actions. Thus, the state law enforcement agency of special purpose, the current legislation mandates the provision of state security. From the above we can conclude that the purpose of this state body is to prevent threats to the national security of Ukraine. The analysis of the legal support of the activity of the state special purpose body with law enforcement functions shows that in order to achieve

this goal, the Security Service of Ukraine, within the competence defined by the legislation, provides protection of state sovereignty, constitutional order, territorial integrity, economic, scientific, technical and defense potential of Ukraine. the interests of the state and the rights of citizens from the intelligence and subversive activity of foreign special services, attacks by certain organizations, groups and individuals, as well as securing state secrets [9]. Ensuring national security also consists in preventing, detecting, suspending and committing crimes against the peace and security of mankind, terrorism, corruption and organized criminal activity in the fields of governance and economy and other unlawful acts that directly threaten Ukraine's vital interests.

The above is carried out by the operational units of the state special purpose body with law enforcement functions in the course of counter-intelligence and operational-search activities, which are regulated by the relevant legislative acts, namely: Laws of Ukraine "On operational-search activity" and "On counter-intelligence activity". An analysis of the content of these laws, as well as the Law of Ukraine "On the Security Service of Ukraine" shows that the activity of the Security Service of Ukraine is aimed at ensuring state security and consists in detecting, preventing the cessation of unlawful encroachments on special services of foreign states, organizations, individual groups and persons on the state security of Ukraine, eliminating the conditions that contribute to them and their causes. The main functional tasks, the solution of which is the key to the effective neutralization by the Security Service of Ukraine of threats to the national security of Ukraine, and, consequently, the achievement of the purpose of the Service are specified.

The need for national security is due, first of all, to the establishment of favorable conditions for the sustainable, progressive development of the state in all spheres of life. This is achieved by averting external and internal threats, intelligence, terrorist and other unlawful encroachments on foreign intelligence services, individual organizations, groups and persons on the system-forming entity of the state: state sovereignty, territorial integrity, constitutional or other legislation, determined by law state security. This is particularly relevant given the need to stabilize the complex military, political, economic situation in eastern Ukraine, neutralize external and internal threats to the security of the state, especially terrorist ones, actively used by foreign special services, criminal organizations, etc. for intelligence and subversive and other unlawful activity. Given the above, it is absolutely reasonable to recognize the state's need for national security, which is vested in a state special purpose body with law enforcement functions and is reflected in the provisions of current legislation.

Given the objective need to counteract the unlawful encroachment of foreign intelligence services, individual organizations, groups and persons on the national security of Ukraine, it is advisable to note that under the provisions of the current legislation the detection, prevention and termination of intelligence, subversive and other illegal activities are authorized the security of Ukraine have the right to exercise both openly and secretly. This is evidenced by the content of the Laws of Ukraine "On operational-search activity", "On counter-intelligence activity", "On the Security Service of Ukraine", the provisions of Chapter 21 of the Criminal Procedure Code of Ukraine and other legislative and subordinate legal acts, which together constitute legal support activities of a state special purpose body with law enforcement functions. The inattention of the tasks assigned to the Security Service of Ukraine is also caused by the increase in the level of latent crime, the use of foreign special services, individual organizations, groups and persons of conspiratorial methods of realization of their criminal encroachments on the national security of Ukraine, counteraction of which becomes especially relevant in the conditions of overcoming the territorial crisis and to preserve the integrity of our state.

Given the above, it is possible to distinguish the essential features of operational activities that collectively make up its content, namely:

- 1) presence of a special subject – authorized operational units of the state law enforcement agency of special purpose, which ensures the state security of Ukraine;
- 2) the existence of a special purpose – to protect the security of the state, its legitimate interests and the rights of citizens from real and potential threats that are realized through the conduct of intelligence, subversive and other illegal activities;
- 3) specificity of tasks – undercover counteraction (detection, prevention, termination) of real and potential, external and internal threats to the state security of Ukraine, first of all, intelligence-subversive and terrorist character;
- 4) specific requirements for the organization of the process – the ability to effectively,

timely neutralize threats to the national security of Ukraine, prevent the occurrence of harmful consequences to the legitimate interests of the state and citizens, eliminate the causes and conditions that contribute to such threats. The peculiarity of the implementation of the above is to prevent the disclosure of special means, forms, methods that were used to achieve the goal;

5) targeting a specific object – external and internal threats to the national security of Ukraine, first of all, potential or real carriers of which are foreign special services, criminal organizations, individual groups and persons; 6) the presence of a specific enforcement tool to achieve the goal – undercover forces, means, forms and methods, the fact of which use should not be disclosed.

Considering the conducted research, the essence of operational activity is protection of state sovereignty, constitutional order, territorial integrity, economic, scientific and technical and defense potential of Ukraine, legitimate interests of the state and rights of citizens against real and potential, external and internal threats, especially intelligence and terrorist character, undercover use of special forms, methods, forces and means.

The content of the operational activities of the Security Service of Ukraine consists in the covered detection and prevention of intelligence, subversive, terrorist and other unlawful activities in order to protect the legitimate interests of the state, as well as to eliminate the causes and conditions conducive to the implementation of criminal encroachments on the state security of Ukraine.

Conclusions. Considering the results of the analysis of scientific investigations concerning problems of understanding of operational activity, the provisions of the current legislative and by-laws can conclude that operative activity is an integral part of providing authorized operational units of a state special purpose body with law enforcement functions. In order to formulate a unified approach to understanding the essence and content of the operational activities of the Security Service of Ukraine, its corresponding concept has been developed. Thus, the operational activities of the Security Service of Ukraine are understood to be tacit activities in the field of state security, which is carried out by authorized operational units of a state special purpose body with law enforcement functions by exercising the rights granted to them by the provisions of the current legislation in the field of counterintelligence, operational-search prevention and termination of intelligence, subversive and other illegal activities of foreign special services, separately their organizations, groups and individuals, and the elimination of causes and conditions that contribute to the emergence of threats to the national security of Ukraine.

Given the above, the operational activities of the state special purpose body with law enforcement functions should take an important place in the system of operational and service activities of the Security Service of Ukraine and require thorough scientific reflection, multi-disciplinary analysis in the context of ensuring national security, as well as the development of theoretical to reflect in the scientific categories ideas about contemporary social, political and economic processes related to activities of special services and law enforcement agencies in combating intelligence and subversive and other illegal activities.

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Summary

The article deals with consideration of the notion of operational activity of the Security Service of Ukraine as a fundamental category of the relevant theory and practice. The study and generalization of the practice of existence of the investigated phenomenon has become the methodological basis for the derivation of the concept of operational activity. Significant signs inherent in the operational activities of the Security Service of Ukraine, which formed the basis for the development of the concept.

Keywords: *operational activity, counter-intelligence activity, operative-search activity, conspiracy, intelligence-subversive activity, paradigm.*