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Administrative and legal status of the national security and defence council of Ukraine as a subject of information security of the state

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Abstract

In 2022, when Russia unleashed a full-scale military attack against Ukraine, considerable attention was paid to information warfare, which is a direct threat to the country's information security. Information security is an important aspect of national security, and its subjects have proven their ability not only to withstand the onslaught of the aggressor state but also to fully resist it. Selfless confrontation, including information threats, was carried out by both state and non-state structures, IT specialists and citizens who understood the importance of winning on the information front. The purpose of the study is to outline the essence of the administrative and legal status of the National Security and Defense Council of Ukraine. It takes promising measures to counter threats to the state's information security. Based on the analysis of the accumulated empirical material, information security as the basis of national security of Ukraine is summarised; the position of the NSDC in the system of subjects of state information policy is outlined; measures to eliminate information threats through the application of prohibitive and restrictive sanctions are revealed. The scientific novelty lies in the attempt to consider the elements of the administrative and legal status of the NSDC in the information field for the first time since the full-scale armed invasion by the Russian Federation using the studied material and the legislative framework. The paper analyses existing gaps in the development and implementation of state policy in the information environment and outlines possible solutions. The author proposes her own interpretation of the administrative and legal status of the National Security and Defense Council of Ukraine. The suggestions for subsequent determination of the administrative and legal status of the NSDC and the mechanism for monitoring the effectiveness of the implementation of the Information Security Strategy will encourage scientists to further study this issue

Keywords:

security sector; national security subject; the decision of the National Security and Defense Council of Ukraine; sanctions; information environment

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Introduction

Today Ukraine is facing both armed and information warfare, and it is difficult to say which one is more important. Ukraine will have a victory on all fronts, including the information one. Seven months of war proved the need for coordinated interaction of all subjects of information security of the state, and coordinated measures of security forces continue to protect the interests of Ukraine in the information space from real and potential threats.

The priority task of the National Security and Defense Council of Ukraine (hereinafter – NSDC) is to protect the national information environment and ensure national security in the information sphere, especially in martial law. The world is absorbed by the information environment, from the short stay of users on the Internet, and permanent, especially online.

The attitude of Ukrainians towards Russia, its authorities, politics, propaganda, military personnel, bloggers, journalists, and celebrities has changed dramatically since February 2022. The world was finally able to see the policy of the aggressor country of Russia from a different angle. Thus, diplomats made every effort to inform all countries of the world, in particular at the UN Security Council meeting, about the terrorist activities of the Russian Federation through the killing of Ukrainian prisoners in Olenivka. The truth about what has happened and is happening on the territory of Ukraine should be accessible to everyone. The Ukrainian authorities are open to discussing all events and covering crimes committed by representatives of the Russian Federation. It is the time when statements coming from the part of the Russian Federation cannot be trusted. An important step was to inform the international community about all the details of the Ukrainian counteraction to the Russian man-made famine. Russian terrorism is primarily aimed at breaking the inner strength of Ukrainians. But Ukrainians are a great nation, with its own customs and traditions, which in a difficult moment have united to resist Russia, and now to defeat it. The imposed sanctions against the aggressor country are gradually starting to take effect.

An analysis of the current state and level of the security sector of Ukraine, in particular in the information space, and its legislative support, leads to the conclusion that it requires further improvements and research.

The direct issue of the role and authority of national security and defence subjects was studied by R. Prav [1], H. Sytnyk [2], T. Tkachuk [3] and others. T. Zhuk devoted his work to the definition of the subject composition of the security and defence sector [4]. P. Bohutskyi [5; 6], I. Doronin [7] in their works covers the administrative and legal regulation of national security and the formation of the law of national security through the subjectivity of the state in the law of national security.

Certain aspects of the administrative and legal status of subjects of ensuring national security and defence of Ukraine were studied by P. Volotivskyi [8], in particular, the powers of the President of Ukraine as head of the mobilisation training and mobilisation of the state through the National Security and Defence Council of Ukraine.

Information security as a subject of administrative and legal regulation was considered by M. Baran [9], M. Dmytrenko [10]. V. Lipkan considers the NSDC as a state body of strategic communication in the field of national security [11].

The following researchers focused on security threats to the information environment as part of national security: O. Stepko [12], V. Antonov [13], O. Zolotar [14], V. Torichnyi [15], N. Tkachuk [16], T. Tkachuk [17-19], O. Panchenko [20], D. Melnyk [21], N. Bartosh [22], R. Prav [1], A. Voitsikhovskiy [23], K. Ismailov [24], D. Bielykh [24]. V. Smolianiuk defines the subjects of national security that are part of the national security system and the characteristics of information sovereignty [25]. Information security as an organic component of national security was considered in a monographic study by such scientists as M. Krysh-tanovych, Ya. Pushak, M. Fleichuk, & V. Franchuk [26].

It should be stressed that the National Security and Defence Council, not only as a coordinating body on national security and defence but also as a body that makes important decisions for the state, including in the information sphere with further approval by the President of Ukraine, is of great importance for the implementation of the principles of domestic and foreign policy in the field of national security and defence. Today, the decisions of the National Security and Defense Council of Ukraine are particularly significant due to their timely detection, and prompt response to prevent and neutralise real and potential threats to the national interests and national security of Ukraine through the application of prohibitive and restrictive measures (sanctions).

The purpose of the study is to outline the essence of the administrative and legal status of the National Security and Defence Council of Ukraine; to study and predict threats to the national security of Ukraine in the information space, and, on the basis of the studied empirical base, to define information security as the basis of the national security of Ukraine; the position of the NSDC among the subjects of the State information policy; the mechanism of response to information threats to Ukraine; measures to eliminate information threats by applying prohibitive and restrictive sanctions and raising the level of awareness of Ukrainians in the information environment.

Literature review

A significant gap in the current legislation is the lack of a clearly defined list of subjects of information policy.

¹Law of Ukraine No. 2657-XII “On Information”. (1992, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/2657-12#Text>.

Whereas the Law of Ukraine “On Information”¹ contains only a conditional list of subjects of information relations, which is significantly different from the concept of subjects of information policy.

We agree with the opinion of R. Prav [1, p. 65] who argues that the desire of the aggressor to influence the state information infrastructure, information resources, society, and consciousness of citizens to coordinate and impose a planned system on the state is the main information threat. As emphasised by A. Voitsikhovskiy, with the development of the information society, critical infrastructure facilities that have been exposed to cyber threats over the past decade are becoming significant, as information and communication technologies are constantly advancing within the global information space [23].

It is worth highlighting the innovative approaches to eliminating threats to national security proposed by K. Ismailov & D. Bielykh [24] by creating a common system of protection, and developing the information space in Ukraine in the context of global information circulation with the observance of the relevant sovereignty and security. The author agrees with the main conclusion of the researchers, which is that the information sovereignty of the state cannot be the main goal of national security [24, p. 209].

At the same time, information security is a key element in the formation of society in the information space while supporting the interests of a given state. Providing the protection of information independence of the state directly proceeds from the essence of information security, which, in turn, is revealed through the protection of internal information; from disclosure; information resources. Information security, on the other hand, can control information flows, while limiting access to provocative, false, hostile information in its various manifestations; protect the national information environment from external information aggression/war [12, p. 91].

Of interest for this study is a number of works by T. Tkachuk, who pays attention to the legal support of information security, and researching the information security system, proposed his own formula “territory – population – public administration system”, based on a set of subjects; infrastructure; space and resources and social relations in the information environment [17; 18].

O. Panchenko suggests defining effective mechanisms for neutralising information security risks at the legislative level by clarifying and classifying them. There is a need for the legal regulation of overlapping authorities of the national security and information security entities, and optimisation of their interaction. The author proposes his own interpretation of information security, with regard to its national and state interests and the system of strategic priorities [27].

A suggestion by E. Kobko on the legal consolidation of the subjects of ensuring national security in Ukraine by approving a regulation on the interaction and

coordination of the subjects of ensuring national security, which defines the subjects, forms and methods of their interaction and the coordinating body among them, is valid [28, p. 21-22].

According to the author of the paper, the approach of O. Dovhan & T. Tkachuk on the interaction of information society actors on the basis of information exchange as a component of national security is justified. It is stressed that the information security system consists of reliable data, protection from any influence on it and security of information technologies. Attention is also drawn to the potential issues related to the observance of constitutional rights and freedoms of citizens in the spiritual environment and information activities [29].

The author agrees with the argument of O. Panchenko [20] that information security occupies one of the leading positions in the national security system. Since a certain state seeks to be stronger and more competent than others in such areas as military, technical, and economic, to prevail in strategic and tactical terms, and to develop and master new technologies in military equipment and weapons. The state that manages the advanced communication outlets and has an effective information system will be able to resist the information war. The main weapon of such a struggle in the international arena is information [20].

The author of the article supports the stance of N. Tkachuk [16], who points out that Russia is a country that carries out cybercrime against Ukraine through the use of hybrid aggression tools (cyberattacks) aimed at destroying the information system, and critical infrastructure. Emphasis was also placed on increasing the effective counteraction to cybercrime, protection of state information resources and the importance of their examination [16].

Since, today, the activities of the Russian Federation are associated with intensified cyber attacks on the information structure of Ukraine to damage or destroy it; continuing to conduct information warfare to destabilise the country; concealing or shifting the blame for its own crimes to Ukraine. Constantly changing the motives of its armed aggression in all its manifestations against Ukraine, carrying out terrorist and separatist activities on the territory of another country, Russia hides behind the concept of the so-called “Russian world”. The author of the article shares the opinion of M. Baran [9, p. 53] that this is a small but acute part of the most dangerous external threats in the information sphere.

The structure of information support for national security, which consists of a list of national interests and priorities, characterises the information necessity of national security entities [30].

The war in Ukraine will show that the Russian military aggression is aimed at destroying the sovereignty and integrity of Ukraine, while the unity of citizens and courage of the Armed Forces of Ukraine managed to resist the aggressor in defence of their homeland, since

the protection of the sovereignty and territorial integrity of Ukraine, information security as one of the functions of the state is the business of the entire Ukrainian people, as stated in Article 17 of the Constitution of Ukraine¹.

Having analysed the main provisions of the Constitution of Ukraine², the Law of Ukraine "On National Security of Ukraine"³, the results of scientific research of Ukrainian and international scientists on the problems of determining the components of the national security system in the twenty-first century, V. Antonov emphasises the need for timely neutralisation of the threat, which carries the danger of interfering with national interests in such spheres of society and the state as foreign policy, information, economic, political, military, social, and environmental [13, p. 142-143].

Materials and Methods

The author of the article used the legislative and regulatory basis, and the results of dissertation research of some scientists who studied this issue, in particular: V. Lipkan [11; 31; 32] on the legal status of the NSDC in the field of national security of Ukraine and its problematic issues.

The argument of V. Lipkan on the clarification of the name of the subject of national security – "National Security and Defence Council", which justifies the need to use the concept of "National Security Council of Ukraine" at the legislative level without the word "and defence", is worth considering, since according to him defence is one of the components of national security [32].

When preparing the article, the author found it important to analyse the works of Ukrainian researchers who have been studying this issue for an extended period of time, namely V. Lipkan [11; 31; 32], V. Antonov [13], T. Tkachuk [3; 17; 19], O. Zolotar [14], P. Bogutsky [5; 6], I. Doronin [7] to study and analyse their proposals and conclusions on ensuring national security, in particular in the information field.

Based on the task, the author of the article used the methodology, in particular, system analysis, systematisation, comparison, and other methods of scientific knowledge. The main methodological component was general scientific methods, among which the system approach, consisting of structural and functional methods, held a key place. Thus, to define and disclose the concept of the administrative and legal status of the NSDC, the study used the method of analysis and synthesis; to study the legal basis of national security and defence of Ukraine, the dialectical method was used; studying the legal status of the NSDC as a special

national security body in the information environment, respectively, the logical method and comparative legal method has allowed the author to track legislative changes in this range of issues, with regard to current events.

To address these issues, the author of the article studied the legislative and regulatory framework for the subject of information security of the state – the National Security and Defence Council, and the mechanism of decision-making and adoption at the state level. The NSDC authorities were investigated and further steps to improve them were analysed.

The empirical material on the following issues is analysed: information security; information state security; problems of human rights and freedoms in the information society; threat to information security of the state; information security as the basis of national security of Ukraine; system of subjects of state information policy; activities of the National Security and Defence Council; protection and control of the national information space; elements of the administrative and legal status of the NSDC in the information space.

Important methods in preparing this article were comparative and axiomatic to determine the place of the NSDC in the security of the state, in particular the information environment. The mechanism of decision-making by the National Defence and Security Council on strategies and application of sanctions restrictive measures is outlined.

The conclusive method of research was the combined method, through which the author of the article proposed the definition of the administrative and legal status of the NSDC as a subject of information security of the state, based on a full methodological analysis.

Results and Discussion

The status of the National Security and Defence Council of Ukraine in the legal field is defined by Article 1 of the Law of Ukraine "On the National Security and Defence Council of Ukraine" in accordance with the Constitution of Ukraine⁴ as a coordinating body on national security and defence under the President of Ukraine.

Based on the content of Article 4 of the Law of Ukraine "On the National Security and Defence Council of Ukraine"⁵, the competence of the NSDC includes powers that can be conditionally grouped by nature and content, for example, by law-making, control and organisational, information, accounting direction.

The special feature of the administrative and legal status of public authorities, which is endowed with administrative power functions, is its structure

¹Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text>.

²*Ibidem*, 1996.

³Law of Ukraine. No. 2469-VIII "On National Security of Ukraine". (2018, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

⁴Law of Ukraine No. 183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text>.

⁵*Ibidem*, 1998

and having reviewed the proposals and insights of administrative law researchers, the authors will attempt to present the elements of the administrative and legal status of the NSDC: 1) legal personality (legitimation in legal acts, concept, the procedure of formation, composition and structure); 2) administrative and legal principles; 3) competence; 4) forms and methods of activity; 5) decision-making procedure; 6) responsibility.

The core functions of the NSDC can be grouped into certain classification groups, namely: 1) the rule-making function (normative legal acts); 2) the function of interaction and coordination of national security subjects; 3) the controlling function (monitoring of tasks); 4) the information and analytical function.

One of the means of ensuring the national security of Ukraine, which includes information security, is the implementation of a comprehensive state information policy. Thus, the Law of Ukraine "On the National Security of Ukraine" has been in force for four years, the Decree of the President of Ukraine¹ "On the Decision of the National Security and Defence Council of Ukraine of September 14, 2020 "On the National Security Strategy of Ukraine"² has been in force for almost two years, but during this short time, conceptual updates have been initiated and the legal regulation of activities in the field of national security of Ukraine has been improved. Conditions for building effective vertical management of the security sector have been created.

The Law of Ukraine "On National Security of Ukraine"³ stipulates that the state policy in the spheres of national security and defence is aimed at ensuring military, foreign policy, state, economic, information, environmental security, cyber security of Ukraine, etc.

Decrees of the President of Ukraine No. 448/2021 "On the Decision of the National Security and Defence Council of Ukraine" of July 30, 2021 "On the Strategy of Foreign Policy of Ukraine"⁴ and No. 685/2021 "On the Decision of the National Security and Defence Council of Ukraine" of December 28, 2021 "On the Information Security Strategy"⁵, in accordance with Article 107 of the Constitution of Ukraine⁶, the enacted decisions of the NSDC are a logical continuation of ensuring national interests.

This provision has been embodied in the relevant legislation, in particular, the Law of Ukraine "On the Principles of Domestic and Foreign Policy"⁷ which provides, in particular, for the functioning of Ukrainian public television and radio broadcasting with state support and funding for the protection of the national information environment. The Law of Ukraine "On Information"⁸ refers to the directions of the state information policy, in particular, ensuring the information security of Ukraine and promoting international cooperation in the information sphere and Ukraine's entry into the world information space, but does not contain a definition of the concept of information policy.

Consequently, the legislation on determining the list of subjects of information policy needs to be improved, since the Law of Ukraine "On Information"⁹ outlines only a conditional list of subjects of information relations, which is significantly different from the concept of subjects of information policy.

According to the author of the article, information security should be considered as a complex, systemic, multilevel phenomenon influenced by external and internal factors affecting the global political sphere, potential risks and threats, information and communication system and policy of the country. A number of publications by T. Tkachuk were devoted to threats to information security [3; 17]. At the same time, information security as a complex, dynamic, integral social system, is part of the security of the state and society precisely because of the interdependence and creation of certainty to protect their important interests, ensuring their competitive and progressive development [14, p. 154]. N. Bartosh [22, p. 21] emphasises that the tasks entrusted to public authorities regarding information security, information policy, and counterpropaganda are partially duplicated by the NSDC and the State TV and Radio Broadcasting. D. Chyzhov notes that one of the areas of ensuring human rights in digitalisation is ensuring its information security, and also proposes to study it in conjunction with cyber security [30].

Analysing the components of information security of the state O. Stepko [12, p. 97] argues that to prevent and counter information threats, it is necessary

¹Law of Ukraine No. 183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text>.

²Decree of the President of Ukraine No. 392/2020 "On the Decision of the National Security and Defence Council of Ukraine, "On the National Security Strategy of Ukraine". (2020, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/392/2020#Text>.

³Decree of the President of Ukraine No. 392/2020..., op. cit.

⁴Decree of the President of Ukraine No. 448/2021 "On the Decision of the National Security and Defence Council of Ukraine of July 30, 2021 "On the Strategy of Foreign Policy of Ukraine". (2021, August). Retrieved from <https://zakon.rada.gov.ua/laws/show/448/2021#Text>.

⁵Decree of the President of Ukraine No. 685/2021 "On the Decision of the National Security and Defence Council of Ukraine of October 15, 2021 "On the Information Security Strategy". (2021, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/685/2021#Text>.

⁶Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text>.

⁷Law of Ukraine No. 2411-VI "On the Principles of Domestic and Foreign Policy". (2018, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/2411-17#Text>.

⁸Law of Ukraine No. 2657-XII "On Information". (1992, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/2657-12#Text>.

⁹*Ibidem*, 1992.

to improve the organisation of forms and methods by regulating the provisions of the functioning of the system, with the distribution of powers of public authorities; introduction of a system for monitoring the state of information security; forecasting possible critical threats to the information environment of the state and their elimination; improvement and development of technical capabilities of the state on the experience of world software and hardware to ensure information security; monitoring and analysis of statistical and financial indicators of the information security system; evaluation of the information security system through the study of its criteria and methods.

Moreover, the current conditions of Russia's large-scale not only hybrid (economic and informational-humanitarian), but mainly purely armed warfare against Ukraine require a proper and timely response. One such method of response is the application of sanctions by the competent authorities of the state to manifestations of hostile information and disinformation special operations against Ukraine. In recent decades, the aggressor state has defiantly filled the information space with false and distorted information.

As rightly underlined by M.A. Dmytrenko [10], in view of the nature and distinctive features of Russian aggression and genocide, a primary goal of the Russian-Ukrainian war is to change the self-identification of Ukrainians. V. F. Smolyanyuk draws attention to the different understanding of the definition of "national values" by the authorities and the population of different regions of Ukraine, which, in turn, complicates the unified formation of the security culture of the state and societies [25, p. 120].

The analysis of recent events shows that the most effective subject of information security of the state is the constitutional body, namely the National Security and Defense Council of Ukraine, headed by the President of Ukraine, whose activities are also determined by a special act that has the force of law.

The NSDC, as the coordinating body in the sphere of national security and defence of the country, makes decisions on strategic national interests, conceptual approaches and directions, including political, economic, military and informational, taking into account potential threats¹.

The Institute of National Security Problems, the National Institute of International Security Problems and the NSDC's Administration are elements of the information security system of Ukraine.

According to the author of the article, these provisions outline the special status of the NSDC in the system of subjects of the state information policy. This is also evidenced by an important policy document approved by the NSDC on October 15, 2021, and enacted by the Decree of the President of Ukraine of December 28, 2021 – "Information Security Strategy"² (implementation period until 2025) (hereinafter – the Strategy). The first strategic goal is to identify and neutralise threats to national security, both internal and external, to eliminate terrorist, sabotage groups, and organisations of aggressor states with further improvement of information security of Ukraine³. To achieve the set goals, the NSDC should effectively interact with state bodies, organisations, and citizens⁴.

Analysing the functional responsibilities of the subjects of information security of the state T.Yu. Tkachuk divided them into the following areas: information intelligence; information protection; information influence. The NSDC as a subject of information security was not included in the above subsystems, although the author considers it necessary to create an interdepartmental commission or coordination council under the NSDC to make coordinated decisions by the subjects of information security in the implementation of state policy [3, p. 45].

The mechanism of implementation of this and other goals and objectives of the Strategy⁵ is, in particular, that the NSDC of Ukraine coordinates the activities of the executive authorities to ensure state security in the information environment also using the capabilities of the Centre for Countering Disinformation. Thus, among the subjects of information policy defined in the Strategy⁶, the priority role is given to the NSDC as the constitutional coordinating body in the field of national security.

In 2021, the Centre for Countering Disinformation as a working body of the National Security and Defence Council was established to neutralise and prevent real and potential threats to Ukraine's national interests and national security, including compromising statehood, ensuring Ukraine's information security, and effectively countering Russian propaganda and manipulation⁷.

A. Shapovalov [33] suggests defining "information terrorism" to effectively combat it. The Centre's experts are developing dynamic interactive maps, in particular, prognostic maps of information threats and maps of information space, to form the immunity of Ukrainians to disinformation. The educational project "Educational Hub" is aimed at mastering knowledge on information hygiene [33].

¹Law of Ukraine No. 183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text>.

²Decree of the President of Ukraine No. 685/2021 "On the Decision of the National Security and Defence Council of Ukraine of October 15, 2021 "On the Information Security Strategy". (2021, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/685/2021#Text>.

³*Ibidem*, 2021.

⁴*Ibidem*, 2021.

⁵*Ibidem*, 2021.

⁶*Ibidem*, 2021.

⁷Decree of the President of Ukraine No. 106/2021 "On the Decision of the National Security and Defence Council of Ukraine of March 11, 2021 "On the Establishment of the Centre for Countering Disinformation" at the National Security and Defence Council of Ukraine". (2021, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/106/2021#Text>.

According to the author of the article, disinformation poses a massive threat as it cannot be quickly refuted due to the difficulty of proving and prosecuting the authors of fake news. Since the beginning of the full-scale Russian armed attack against Ukraine, the experts of the Centre for Countering Disinformation at the NSDC have been working quite effectively and proactively, alerting the media and Internet networks about “fake” news. A striking example is a timely response to the spread of Russian deepfake about the President of Ukraine Volodymyr Zelenskyy surrendering and fleeing the capital of Ukraine – Kyiv.

According to O. Stepka [12], the spirit of the nation is formed based on the information received, and this affects the national defence system. The brainwashed population ceases to analyse and verify information, so over time, it perceives it as if “as live as on TV”, resulting in a distorted shown image of the world becoming more real than the world itself. Therefore, it is extremely important to impose sanctions on the work of websites, Internet pages and journalists, bloggers of the aggressor country in the first place.

A positive experience of military information confrontation with the armed aggression of Russia was the educational activities of state bodies, in particular the NSDC activities among the population of Ukraine aimed at stabilising the threats planned by Russia [34, p. 99]. It was constantly emphasised on not revealing the locations where the enemy missiles hit, and the movement of military equipment and weapons of the Armed Forces of Ukraine, especially in social networks and public media. Informational rehabilitation of persons from the occupied territories.

Aiming at the interaction of state structural bodies and civil society in the information space V.O. Torichnyi [15, p. 205] proposes to develop a state target programme “Electronic Ukraine” with fundamentally new opportunities for openness and transparency of decision-making, and improving the image and level of trust.

The NSDC plays an important role in current circumstances:

- as a coordinating body for national security and defence of the state;
- a body that makes important decisions for the state, including in the information space with further

approval of the President of Ukraine. Decisions of the NSDC enacted by decrees of the President of Ukraine are binding on the executive authorities¹.

If the NSDC decision imposes sanctions, then in accordance with Article 5 of the Law of Ukraine “On Sanctions”², one of the types of sanctions (sectoral and personal) is indicated.

In addition to rule-making activities, such as the development and approval of policy documents in the information sphere (doctrines, strategies), the NSDC also takes targeted individual measures to identify and timely neutralise information threats to Ukraine by applying special economic and other restrictive measures.

Thus, according to Ukrainian legislation, restrictive measures (sanctions) can be applied to: a foreign state and a legal entity; a legal entity controlled by a foreign legal entity or a non-resident individual; foreigners, stateless persons, and terrorist entities³.

One such type of sanction is the blocking of assets of persons (temporary deprivation of the right to use and dispose of assets), which is carried out by imposing sanctions by the relevant decision of the National Security and Defence Council.

Since 2015, the NSDC has adopted more than 50 decisions on the application of personal special economic and other restrictive measures (sanctions) to individuals and legal entities whose activities pose a danger to Ukraine, in particular in the information sphere. For example, by the NSDC decision of 02/02/2021, restrictive measures (sanctions) were applied to the following legal entities: LLC “Ariadna TV”, LLC “New Format TV”, LLC “TV Choice”, LLC “TV and Radio Company “112-TV”, LLC “Leader TV”, LLC “Partner TV”, LLC “News 24 Hours”, LLC “New Communications”⁴.

By the decision of the NSDC of 12/30/2021⁵, restrictive measures were imposed on 16 individuals and legal entities, in particular on Anatoliy Shariy and Shariy.net News Agency LLC, who was notified of suspicion under two articles of the Criminal Code of Ukraine – Part 1 of Art. 111 “High Treason” and Part 1 of Art. 161 “Violation of the equality of citizens based on their race, nationality, religious beliefs, disability and other grounds”⁶. According to the Law of Ukraine “On Sanctions”⁷, 12 sanctions were imposed on them, including other sanctions that comply with the principles of their application

¹Law of Ukraine No. 183/98-BP “On the National Security and Defence Council of Ukraine”. (1998, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text>.

²Law of Ukraine No. 1644-VII “On Sanctions” (2014, August). Retrieved from <https://zakon.rada.gov.ua/laws/show/1644-18#Text>.

³*Ibidem*, 2014.

⁴Decree of the President of Ukraine No. 43/2021 “On the Decision of the National Security and Defence Council of Ukraine of February 02, 2021 “On the Application of Personal Special Economic and Other Restrictive Measures (Sanctions)”. (2021, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/43/2021#Text>.

⁵Decree of the President of Ukraine No. 57/2022 “On the Decision of the National Security and Defence Council of Ukraine dated 30 December 2021 “On Amendments to Personal Special Economic and Other Restrictive Measures (Sanctions)”. (2022, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/n0089525-21#Text>.

⁶Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

⁷Law of Ukraine No. 1644-VII..., op. cit.

established by the Law of Ukraine "On Sanctions"¹ (blocking by Internet providers of access to web resources/services hosted on domains and subdomains sharij.net, sharij.online, sharij.com.ua, and other web resources/services that provide access to the Sharij.net² portal.

Thus, through its decisions, the NSDC more quickly and effectively responds to information threats to Ukraine, applying prohibitive and restrictive sanctions, while avoiding going to court, as provided for by the powers of another constitutional body – the National Council of Ukraine on Television and Radio Broadcasting. Its main responsibilities are control and supervision over the observance of legislation in the field of television and radio broadcasting, its licensing and state registration of television and radio organisations and programme service providers³.

Thus, it is possible to suggest that the NSDC's sanctions decisions in the information sphere concern the suspension (but for an indefinite period), but not the closure of broadcasting by television and radio organisations, which does not exclude the resumption of their activities after they eliminate the identified violations of the legislation on information, in particular, and national security, in general.

The authors share the expert opinion of D. Melnyk [21, p. 25] on the importance of timely identification of risks and threats to state security in the information space by competent entities to prevent negative consequences.

Conclusions

The full-scale armed attack of the Russian Federation on Ukraine convincingly demonstrates that ensuring state sovereignty, territorial integrity and inviolability is the main task of the security and defence sector today.

Considering information security at the state level as a system of measures aimed at preventing and neutralising unauthorised access to information, an inflow of false information, change or violation of the relevant settings. First of all, information state security is aimed at protecting the state, political and public interests; state sovereignty; moral values; human rights and freedoms from any encroachments and discrimination; from war aggression and violence.

Protection and control of the national information space from real and potential threats, as well as

dissemination of reliable information about Ukraine in the world information space and access to it are among the tasks of the National Security and Defence Council of Ukraine.

Thus, the author of the article notes that to balance democracy and security in the state, it is necessary to continue to work on improving the state system of information security in Ukraine to prevent monopoly in the field of information security.

The analysis of normative legal acts, scientific achievements of legal scholars has established that the administrative and legal status of the National Security and Defence Council of Ukraine as a subject of information security of the state is a set of specifically defined functions and competencies (law-making, control and organisational, information, strategic planning). The elements of the administrative and legal status of the NSDC should be recognised as: 1) legal personality (legitimation in normative legal acts, concept, formation procedure, composition and structure); 2) administrative and legal principles; 3) competence; 4) forms and methods of activity; 5) decision-making procedure; 6) responsibility.

In conclusion, it is important to highlight that the NSDC of Ukraine coordinates the activities of executive authorities to ensure state security in the information environment through the capabilities of the Centre for Countering Disinformation. Specialists of the Centre for Countering Disinformation have created the project "Educational Hub" to provide Ukrainians with knowledge on information hygiene and to form their immunity to disinformation ("fake" news).

Of particular importance is the formation and maintenance by the NSDC of the Register of persons with significant economic and political weight in public life (oligarchs). During its activities, the national security and Defence Council has considered a huge number of issues related to the formation and implementation of state policy with the adoption of appropriate decisions on them in order to stabilise both the political and informational situation in the state.

In view of the above, the author of the article emphasises the need for further refinement of the mechanism for monitoring the effectiveness of the implementation of the Information Security Strategy, in particular, regarding the NSDC sanctions decisions.

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¹Law of Ukraine No. 1644-VII "On Sanctions" (2014, August). Retrieved from <https://zakon.rada.gov.ua/laws/show/1644-18#Text>.

²Decree of the President of Ukraine No. 57/2022 "On the Decision of the National Security and Defence Council of Ukraine dated 30 December 2021 "On Amendments to Personal Special Economic and Other Restrictive Measures (Sanctions)". (2022, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/n0089525-21#Text>.

³Law of Ukraine No. 538/97-BP "On the National Council of Ukraine on Television and Radio Broadcasting". (2022, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/538/97-%D0%B2%D1%80#Text>.

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Адміністративно-правовий статус Ради національної безпеки і оборони України як суб'єкта інформаційної безпеки держави

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Анотація

В умовах повномасштабної воєнної агресії проти України значну увагу приділяють веденню інформаційної війни, яка є прямою загрозою інформаційній безпеці країни. Інформаційна безпека є важливим аспектом національної безпеки, а її суб'єкти довели свою спроможність не лише витримати тиск з боку держави-агресора, а й всебічно протистояти йому. Так, самовіддане протистояння, зокрема інформаційним загрозам, здійснювали як державні, так і недержавні структури, IT-фахівці та громадяни, які усвідомлювали важливість перемоги на інформаційному фронті. Метою статті є окреслення сутності адміністративно-правового статусу Ради національної безпеки і оборони України, забезпечення виконання нею перспективних заходів протидії загрозам в інформаційній безпеці держави. На підставі аналізу накопиченого емпіричного матеріалу узагальнено інформаційну безпеку як основу національної безпеки України, окреслено позицію РНБО в системі суб'єктів державної інформаційної політики, схарактеризовано заходи щодо усунення інформаційних загроз шляхом застосування заборонних й обмежувальних санкцій. Науковою новизною є спроба, з огляду на вивчений матеріал і законодавчу базу, вперше з моменту повномасштабного збройного вторгнення РФ розглянути елементи адміністративно-правового статусу РНБО в інформаційному полі. Також проаналізовано прогалини з розробки та втілення державної політики в інформаційному середовищі й окреслено шляхи їх розв'язання. Запропоновано авторське визначення адміністративно-правового статусу Ради національної безпеки і оборони України. Подано пропозиції з подальшого визначення адміністративно-правового статусу РНБО та механізму моніторингу ефективності впровадження Стратегії інформаційної безпеки, які спонукатимуть науковців до подальшого вивчення зазначеного питання

Ключові слова:

сектор безпеки; суб'єкт національної безпеки; рішення; Рада національної безпеки і оборони України; санкції; інформаційне середовище