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## Scientific Advancement in Forecasting of Administrative and Legal Threats to the Security of Economic Entities

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### Abstract:

The article is devoted to the problems of forecasting administrative and legal threats to the security of economic entities as a separate field of scientific research. The attention is focused on the essence and features of legal forecasting, the characters of the cause of administrative and legal threats to the security of economic entities and their essence. On the basis of the analysis of the most famous nowadays proposals concerning the phases of legal forecasting, the model of the stage of forecasting of administrative and legal threats to the security of economic entities is proposed. It was noted that the resolution of the above problem in Ukraine was not investigated sufficiently. That proves the relevance of the research direction and predetermines the need for further studies in this field.

**Keywords:** legal forecasting; administrative and legal threats; administrative and legal security; business entities; stages of legal forecasting.

**JEL Classification:** K40; P37; P48.

### Introduction

For ages, the security of society has been one of the most important human needs, of various social formations and of the people in general. Modern content theories of motivation determine the need for security as one of the major. However, according to most experts, the theoretical and methodological principles of assessment and administrative and legal security assurance of economic entities are not yet sufficiently developed and this problem, we believe, is related to the uncertain political, social and economic state policy formation that requires from



business entities to take effective measures to make their own security, to search forms and methods for identifying and neutralizing possible risks and threats which negatively affect the dynamics of development and the results of their activities (Asyaeva *et al.* 2016).

Identifying and taking measures to prevent threats to financial and economic security involves systematic analytical and forecasting activities analyzing the state of business entities as a result of their strategic decisions, influenced by all trends and processes, including changes of demand on goods, investment volumes, etc. (Vasylyshyn *et al.* 2012).

Exploring these issues, it will be logical to build on methodological guidelines and tips for forecasting the development of legislation and the efficiency of its use in administrative and legal security of business entities (Akhmetshin, Osadchy 2015; Akhmetshin, Vasilev 2016).

The relevance of this topic is caused by the fact that there are different points of view on forecasting administrative and legal threats to the security of business entities, which is a scientific forecasting of the future state of 'administrative and legal threats to the security of business entities' and adjacent concepts and categories. Particular attention in the article is paid to the works of such scholars as Andriyuk, Bank, Vasylyshyn, Gatilova, Gorbatenko.

## 1. Methodology

The purpose of this scientific work is the theoretical justification of the scientific position on the development of solutions to problematic issues of the efficiency of the existing forecasting model of administrative and legal threats to the safety of business entities, which should positively affect the development of the future social and political life of the country.

The implementation of the predictive safety function of business entities in the course of their activities is impossible without targeted analysis and development of a theoretical, legal and methodological framework, forecasting research in the field of administrative law ensuring the security of business entities from unexpected threats that destructively affect the dynamics of their growth.

We believe that Foresight technology can provide special value in this process, the literal translation of which means - a vision of the future, using various analysis tools - as one of the most promising methods for predicting and minimizing negative consequences in the field of security of business entities. On this case, Berkhout, Jordan and Hertin note that foresight is a way of thinking about the future to identify probability and threats that may occur in the coming years and decades (Berkhout *et al.* 2012). In spite of difference of methods of analyzing foresight from traditional forecasting, the use of this technology today is supported by the majority of economically developed countries of the world.

## 2. Results and Discussion

Analyzing the causes of the occurrence of administrative and legal threats to the security of economic entities, it should be noted that they are due, on the one hand, to factors of a nationwide nature (macro level), which negatively affect most economic entities and infringe their state of economic security as part of national security. Analyzing the causes of the occurrence of administrative and legal threats to the security of economic entities, it should be noted that they are due, on the one hand, to factors of a nationwide nature (macro level), which negatively affect most economic entities and infringe their state of economic security as part of national security. On the other hand, factors are being related to the incompetence and lack of professionalism of the managerial staff as a result of short-sighted, ineffective managerial decisions (and in some circumstances illegal actions) that ruin the dynamics of economic activity (micro level). Since the definition we propose concerns threats to the security of business entities, it is necessary to clearly define the nature of these threats. Often, these are associated only with malicious actions. Thus, according to the author of the work I. Petrenko (2008), 'a threat is a danger in the implementation stage, which is initiated by purposeful intentions of destructive forces to harm the vital interests, values and needs of an economic entity up to its destruction', V.I. Yarochkin (2003), characterizing the security system of the company, noted that 'the threat is potentially possible i.e. the real actions of intruders could cause a moral or material damage', and he says in his article (Bekryashev *et al.* 2000): '... we can note three characteristic features of threats to the economic security of entrepreneurial activity: conscious self-interest intentions; actions focused on causing harm to business entity; an illegal character'.

We consider this view unilateral. One of the reasons not to share the considered point of view is that the threat to the security of an economic entity could be not only potential or actual action, but also inaction (Gaponenko *et al.* 2007), and moreover not necessarily malicious. Also, based on the following considerations by G.A. Atamanov: 'The bodies of state power and local self-government, which are usually mistakenly called the state, are the most serious sources of threats, but not because they are corrupt or related to the crime, but because have the

greatest possibilities to cause harm to any entity of economic activity that functions within their jurisdiction. At the same time, the threat is being represented by, to put it mildly, imperfect legislation and the possibility of its ambiguous interpretation by the executive authorities, and the possibility of officials using the administrative resource (official position, law enforcement agencies, media, etc.) to realize their commercial and merely mercantile interests, or the complexity (impossibility) of a fair resolution of controversial issues...' (Atamanov 2014). To confirm above-mentioned, it should be added that, endorsing the optimistic decision of the Cabinet of Ministers of Ukraine on deregulation of business relations in Ukraine, according to which on May 10, 2018 a risk-oriented approach to the implementation of business audits was approved, which involves analyzing the risks of enterprises and checking only the most risky objects that might have violations, more than half – in Ukraine, 58% of small and medium-sized businesses consider the state an obstacle restricting their activities, 28% - a hostile one (Ruban 2018).

It is worth noting that the most common threats to the security of business entities are internal and external threats, which are mostly associated with fraud. In accordance with Article 190 of the Criminal Code, fraud is the taking of someone else's property or the acquisition of the right to property by fraud or abuse of trust. However, the session of the Supreme Court of Ukraine by its decision of November 6, 2009 by Resolution No. 10 indicated that if a person takes possession of someone else's property, meaningfully taking advantage of someone else's error, the occurrence of which she did not contribute, and in the absence of collusion with the person, misled the victim committed cannot be considered fraud. Under certain circumstances (for example, when the property has a special historical, scientific, artistic or cultural value) such actions can be qualified under article 193 of the Criminal Code. Also, if deception or breach of trust was only a way to gain an access to property, namely, the seizure of property occurred secretly or openly, then the composition of the fraud is absent. Such actions should be qualified accordingly as theft, robbery or burglary (On judicial practice 2009).

The punishment for committing a fraud is determined both in criminal and administrative law. Thus, in criminal law, in accordance with Part 1 of Article 190 of the Criminal Code of Ukraine, a penalty is predetermined up to fifty non-taxable minimum incomes of citizens or public works for up to two hundred and forty hours, or correctional labor for up to two years, or restriction of liberty for up to three years (Criminal Code of Ukraine 2001). There are also categories of specific types of fraud, for which a particular punishment is provided for fraud with financial resources, seizure of seals, stamps, documents, etc. (Invicta Attorneys at Law 2017). For petty embezzlement of another's property through fraud, in accordance with Article 51 of the Administrative Code, administrative responsibility is provided, with paying a fine of ten to thirty non-taxable minimum incomes of citizens or correctional labor for up to one month with deduction of twenty percent of earnings, or administrative arrest for a period of five up to ten days.

It is noteworthy that the definitions belonging to Bendikov and Pashnyuk do not have a marked unilateralism. Security threats to businesses, according to Bendikov (2000), is a combination of conditions and factors that make a danger to realize economic interests, that, in turn, could create various risks. By definition of Pashnyuk (2013), with whom we can agree, the threat should be considered as a set of conditions, processes, factors that impede the realization of national economic interests or create a danger to them and business entities. A threat manifests itself in the form of losses or damages, the integral indicator of which indicates the degree of reduction of economic potential over a certain period of time.

Based on the above definitions, and also taking into account the warning given by Atamanov, according to which it's legitimate to mention safety when its object cannot be seriously damaged (from the point of view of the entity who assesses the situation), under threat of safety enterprises understand a certain development of events, action or inaction, which could negatively harm this entity, which can cause it such harm, which is assessed as significant.

By administrative and legal threats to the security of economic entities, we understand administrative violations, which could threaten, and have the negative consequences for her administrative and legal regulation. Foresighting these threats is one of the directions of legal forecasting.

Considering forecasting as a system of scientific knowledge, it should be noted that it began to actively develop from the mid-60s of the twentieth century, which is aimed at improving the phenomena and process of social development of society, as well as changes in the system of legal relations. The term 'prognosis' comes from the Greek word meaning, 'knowledge in advance', and, more generally, foresighting is a far-sighted, forward-looking reflection of reality that can lead to a promising result of self-realization.

Of course, forecasting is understood in a broad and narrow sense, and interpretations of its effectiveness remain an actual dilemma in the scientific world.

In broad sense, this is development of a probable judgment about the state of a phenomenon in the future. In the narrow, this is a special scientific study of the grow prospects of a certain phenomenon, mainly with quantitative evaluation and indication some definite terms for its change (Gorbatenko 2005; Bank 2014).



One of the main conditions for scientific accuracy in the implementation of social (including legal) forecasting is the understanding that the forecast cannot be identified with attempts to foresight all the details of the future due to the action of a quite large number of macro and micro-factors and certain specific factors mediating the phenomena under study. That is why the laws of social development are probable, and the prognostic conclusions should be correctly formulated as tendencies or variational models (Herasyna and Panova 2003).

Regarding legal forecasting and its definition, which can be used in the administrative and legal security of business entities, most of us like an interpretation, made by V.V. Andriyuk, according to which it represents '...descriptive scientific forecasting of prospects, trends, possible or desirable conditions of the investigated object of state-legal reality in the future and occurring problems that concern it, as well as possible and necessary ways, means and terms of achieving these states, posed objectives, solving the imminent problem (or briefly as descriptive scientific forecasting of probable future state of the research entity state-legal reality)' (Andriyuk 2007).

In our opinion, the above definition should be preferred to the statement of Nagrebelniy (2003), that 'legal forecasting is defined as scientific foresight about the future state of state legal processes, their nature and features, pace and stages, directions and ways of implementation, etc. And that's why. In the proposed definition of Nagrebelniy about the essence of foresighting in the legal science, there is no indication of the probabilistic nature of the forecast, namely, judgments about probability of the forthcoming of new methods, ways, means and terms of resolution occurring problems. In confirmation of abovementioned Syrykh (2001) under a legal forecasting understood' a type of scientific legal research that is conducted with the aim of foresighting forthcoming states of law and other phenomena determined by it and has a probabilistic, multivariate character'.

In the scientific world, there are other definitions of legal forecasting, which in terms of justification are inferior to the one proposed by V. Andriyuk. These include, in particular:

- legal (law) forecasting is a type of legal activity and is subject to the general laws of its operation. This is a special spiritual and material production, which it is ought to be organized and planed accordingly. In this area there are the necessary producers, consumers, etc. (Gatilova 2012);
- legal forecasting is a systematic study of the prospects for the development of state-legal processes, their pace and features (Bestuzhev-Lada 1982);
- legal forecasting is an important element of legal monitoring (Chernogor 2010);
- legal forecasting is understood as a systematic, continuous study of the future state of state-legal reality and processes, which is carried out by special scientific institutions and teams (Morozova 2010);
- legal forecasting can be defined as social forecasting (or rather, its separate type) of the assumed or expected future state of objects (processes, phenomena) of state-legal reality (Kurenda 2012);
- legal forecasting is recognized as a systematic study of the prospects for the development of state-legal processes, their pace and features' (Bestuzhev-Lada 1982).

As we can see, none of the proposed definitions in works (Syrykh 2001; Gatilova 2012; Bestuzhev-Lada 1982; Chernogor 2010; Morozova 2010) contains an indication of the probabilistic nature of legal forecasting.

As for the problem of forecasting stages, exploring this question, it should be noted that the analysis of the most well-known proposals about it today gives grounds for the conclusion that the components of the forecasting process of administrative and legal threats to the security of business entities are:

- (1) pre-forecasting orientation;
- (2) collection and systematic analysis of data about the object of forecasting and foresighting background;
- (3) building a forecast;
- (4) its verification;
- (5) forecast adjustment;
- (6) presentation of the results of forecasting and their acceptance by the customer of the prognostic study. Here it is important to remember once again the principle of the continuity of legal forecasting, which says that the forecasting results accepted by the customer can be refined or even drastically revised (Chistokletov 2016).

## Conclusions

Forecasting administrative and legal threats to the security of business entities is the direction of legal forecasting, which presents a probabilistic descriptive scientific forecasting of the future state of the legal reality object under study. In research of forecasting administrative and legal threats to the security of economic entities, the main role should be played by a complex of forecasting tools, containing methods of extrapolating trends, predictive factor mathematical models, models of procedural theories of motivation and a method of expert assessments, which plays a leading role in this complex.

The same should be the role of the expert assessments method among forecasting tools, which should be used to identify potential negative consequences for the safety of economic entities from administrative-legal regulation activities. The range of these tools includes: the method of comparative law, the study of public opinion; approbation; experiment; extrapolation of trends; forecasting factors mathematical models.

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