

JEL Classification: K 23
SECTION: LAW.

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EFFICIENCY OF LEGAL REGULATION OF PUBLIC AUTHORITIES' ACTIVITY IN THE CONTEXT OF NATIONAL SECURITY AND INTEGRATION INTO THE EUROPEAN UNION

Annotation. *The article presents an assessment of the level of effectiveness of the activity of public authorities in implementing the regulatory impact of law in the sphere of national security in the context of integration into the European Union. The category of efficiency of public authorities' activity has been under research. The category reveals the causal link between goals and objectives set out in the regulatory acts, in the documents of a program character and the results of the public authorities' activity, expressed in quantitative and qualitative indicators. The goal category in law and its relation to the category of legal means is analyzed.*

Keywords: *public authorities, efficiency of the activity, law, national security, integration, European Union.*

1. Introduction

Revealing peculiarities of the assessment of the activity of public authorities in the theoretical framework leads to the increase of research interest in the issue of qualitative characteristics of the activity of public administration and determining its effectiveness. The notion of the efficiency of public authorities' activity was used in economic calculations and was meant to clarify the valuation estimation of the activity, expressed in terms of the ratio of the purpose of the activity and the money spent for its achieving. However, the focus is on the legal aspect of public administration effectiveness, based on the designation of law as a social regulator and its ability to ensure the optimal combination of all elements of administrative activity. Understanding of a phenomenon essence consists of the study of its fundamentals, the identification of a significant feature; it is worth mentioning that only the feature defining a concept, with the exception of which the concept itself is destroyed, should be considered essential.

Among the publications devoted to the study of the influence of law on the efficiency of the activity of public authorities, the following ones should be noted: V. Averyanov, H. Atamanchuk, O. Dashkovska, L. Diugi, H. Yellinek, M. Koziubra, I. Koliushko, A. Kolodiy, O. Kopylenko, M. Korkunov, N. Krylova, M. Krutoholova, D. Lloyd, V. Pohorilko, P. Rabinovych, V. Selivanov, L. Sopilnyk, R. Sopilnyk, R. Skrynkovskyy, Yu. Todyk, M. Tsvik, V. Shapoval, Yu. Shemshuchenko and others [1–41].

Purpose of the article is to reveal the peculiarities of the institute of evaluating the effectiveness of public authorities' activity as one of the attributes of the influence of the modern state on social relations in the social sphere.

Methods: in the course of the research a complex of general scientific (analysis, synthesis, generalization, comparison, analogy, modeling, deduction) and private-scientific methods of cognition (formal-legal, concrete-historical and comparative-legal) were used.

2. The concept of the efficiency of public authorities' activity

In legal studies defining the essential characteristics of the concepts of "efficiency" and "successfulness" was based on the development of economic science, where efficiency is the ratio between the achieved result and the resources used, and successfulness is the degree of implementation of the planned activities and the achievement of the planned results. O. Skakun, considering the parity of law and economy, notes that the common law system has the purpose – to act according to the criterion of economic efficiency and to promote the welfare of society. The economic efficiency of law is considered as the greatest effectiveness of legal rules at the lowest social costs, determining what the rules should be in order to meet these criteria [1, p. 8–9].

Along with this point of view, there is a different understanding of the categories of effectiveness in law. There are a number of publications that directly link effectiveness to the achievement of the goal of legal impact. Subsequently, an increasing number of researchers began to recognize the association of regulatory goals, criteria and outcome as a single "triad".

O. Volvak uses an even broader approach. The scientist has included

reckoning of economic and temporary expenses as well as social value in the structure of the concept of efficiency. By the complete effectiveness of the legal regulation, the author understands the achievement of all goals, which are fulfilled with less damage to social values and with economic expenses in the short term [2, p. 24].

In the literature, the effectiveness of legal norms is related to the effectiveness of the activities of public authorities exercising certain powers. Theoretical views served as an impetus for the formulation of the author's concepts of public administration effectiveness with a certain characteristic of measurements. For example, V. Dziundziuk links the efficiency of public authority with the achievement of the goal and solving the problems taking into account the application of constitutional and legal means to achieve the goals and solving tasks on organization, coordination and optimization of structural elements of public authority paying attention to conditions and factors that influence the content and results of the activity [3, p. 15].

H. Atamanchuk identifies two types of public administration efficiency: economic efficiency and social efficiency. Social efficiency is divided into the following types: general and special social efficiency and specific social efficiency [4, p. 411–412].

In the context of legal approach to the effectiveness of public administration, the search for the best means of legal influence on the quality of public administration is ongoing. In our view, the effectiveness of public administration is not only in the ratio of resources used and the results obtained, but in achieving the strategic goals of the state, obtaining socially significant results as well. The multiplicity of definitions of the effectiveness of public administration synonymously proves the need to clarify the conceptual apparatus. It may be suggested to define the effectiveness of public administration as the degree to which the legal goals of public policy are attained by legal means.

Effectiveness of the activity of public authorities is a category that reveals the causal link between the goals and objectives set out in regulatory acts, program documents, and the results of the activity of public authorities, expressed in quantitative and qualitative terms.

Achievement of the goal, obtaining a pre-planned effect can be considered as a sign of the effectiveness of the activity. On the contrary, not achieving the goal, lacking the desired effect is a testament to the inefficiency of public administration. Given that the effectiveness of public administration is a comprehensive assessment of the degree of achievement of the planned results, the question arises about the gradation of this efficiency (high, low, medium), determining the level of activity of public authorities, which can express its effectiveness. The practice of targeting and formulating the predicted effects, which are enshrined in regulations, shows their reduction to quantitative values: for example, achieving 100 % accessibility by 2030 of pre-school education for children under the age of three.

When assessing the effectiveness of the activity of public authorities, it is important to determine the rating scales of the efficiency criteria. The scale describes many possible estimates and their permissible changes. The conclusion

about the effectiveness (inefficiency) of the activity of the authorities belongs to several entities: the initiator, the generator of predicted social effects (president, government, public authorities), society, and the population.

3. Purpose of the activity of public authorities in the field of national security

Formation of the conceptual category requires scientific justification, disclosure of the content of the elements. The first of these elements is the legal consolidation of the goals of the state, especially in the social sphere. The goal of determining the effectiveness of public administration is one of the key parameters. The concept of purpose is used in various sciences, accordingly, has many definitions.

Goals in law are the ideal, desirable result for the sake of which legal activity is carried out. According to O. Mykolenko, the goals of legal regulation are in particular: consolidation in the sources of law of already existing social relations; stimulating the development of those social relations that have already existed and are in the public interest; creating conditions for the emergence and development of new forms of social relations; removal from practice of socially dangerous relations [5, p. 66].

A legal goal is a perfectly predicted and guaranteed state model of a social phenomenon, condition or process which legal entities seek to achieve through legal means. A lot of researches have been conducted in the scientific literature on the definition of a legal purpose: certain peculiarities of the goal in law were clarified, the classification of legal goals was exercised, the interaction of the goal with other legal categories was identified, the need for its provision in each regulatory act was proved.

Despite the large number of theoretical developments, the category of goal in law remains the focus of the theory of law. The main problem is the lack of definition of a goal in the regulatory acts. This problem can be seen as a consequence of a larger one – the lack of definition of the goals of the whole legal policy of the state. This leads not only to the arbitrary interpretation of the goals of the law by the subjects of the law in a favorable light for them, but also causes a number of other problems related to the application of the law. First, it is difficult to clearly determine the predicted result if there is no idea, or a model of what to strive for. Secondly, if there are no goals, there is legal uncertainty about the choice of a system of means to achieve the objectives of the legislative act. The means will either not be selected or incorrectly selected. Thirdly, it is not clear what state of public relations should be pursued by public authorities. It is worth noting that the National Security Strategy of Ukraine defines a priority goal – ensuring the territorial integrity and sovereignty of Ukraine [6]. We consider it important to legally mediate the goals of the state in terms of correlation with the results of the activity of public authorities. As a rule, the category "goals in law" is considered along with the category "legal means". A goal can be achieved by means of certain tools, in this case legal means.

T. Tarakhonich emphasizes that the compliance of the chosen legal means of goals is a necessary prerequisite for efficiency; the wrong choice of means

eliminates or reduces the effectiveness of legal regulation; only the indissoluble unity of the need, means and ways of activity constitutes the content of a goal [7, p. 38]. Legal means are considered as a set of legal instruments (tools and forms of the practice of law implementation), which satisfy the interests of the subjects of law and ensure the achievement of socially beneficial goals. Legal regulation begins with the definition of a goal and ends with the achievement of a specific result. However, the result may be consistent with the stated goal, but it may not correspond or correspond partly. Therefore, the conclusion is made about the effectiveness or the inefficiency.

The structure of legal means includes: instruments-norms, settings and actions-technologies, duties, privileges, prohibitions, incentives, penalties, and means-actions aimed at using the instruments.

Analysis of the semantic meanings of the term “legal means” shows that it includes a wide range of legal categories. As a rule, this term is used only in scientific works, but recently it is found in regulations. But the definition of its legal content is not a question of the research; it is only used to denote the laws that it is governed by.

Not having the purpose of defining the meaningful boundaries of the category of “legal means”, we believe that this category is used to disclose the meaning of the concept of “efficiency of the public authorities’ activity”, since it shows that within this activity there is a predefined and admissible set of legal means.

The theoretical views of scientists on the legal definition of a goal are reduced to the desire for some ideal, abstract, desired result. In the context of the integration into the European Union, concrete results in national security are increasingly important. The social impact model that the state strives for is a goal, but the goal requires regulatory regulation. The planned social effect determines the search for the necessary legal means, determines the activity of the state authorities for its achievement. This model of goal setting was reflected in the formulation of national goals and strategic tasks of Ukraine's development, reflected in the Program of Activities of the Cabinet of Ministers of Ukraine [8]. These goals include: acceleration of technological development, increase of the number of organizations which implement technological innovations; ensuring accelerated implementation of digital technologies in the economy and social sphere; development of the agro-industrial complex, a highly productive export-oriented sector.

At the same time, it is worth noting that the Law of Ukraine dated 26 June 2018 “On National Security of Ukraine” does not define the goals of state policy in this field [9].

Given the fact that the authors attribute the effectiveness of public administration to the social effect achieved as a result of the activity of public authorities, we consider it necessary to define the concept of social effect, which means a significant change in socially significant indicators that reflect the state of society as a whole, and the position of the individual in it.

The social effect is considered as qualitative modifications of the way of society's existence, the relationships of people, their beliefs, and values,

opportunities for realization, quality of the environment, availability of food, level of education, accessibility and quality of medical care, physical security, and confidence in the future.

Legal characteristics, quantitative indicators, including trends obtained by economic and sociological science, and statistics are used to determine the social impact of the activity. The category “social effect” is quite applicable in revealing the essence of the welfare state, identifying the quality of the security function implementation, determining the priority of one function of the state relative to others at a particular historical stage. In this regard, systematic approach is important in exercising legal consolidation of the goals of the state security policy and the powers of public authorities for their implementation. Their formation requires setting a hierarchy of goals and objectives. An essential condition for the legal consolidation of social effects is the need to analyze the capabilities of the resource, forecast the possible risks and the legal mechanism of implementation.

Social effects are objectified as a result of the implementation of state programs or projects; however, the preliminary legal formalization is obtained in the form of target units and strategic orientations indicated in the programs. The program documents contain predictive models; however, the prediction of further development contained in the regulatory acts is not supported by the analysis of resource support capabilities, risk identification, determination of the legal mechanism of implementation and competence of the administrative apparatus, reducing the likelihood of achieving the predicted effect.

When planning a given social effect, it is necessary to understand its essence, which can be characterized by the following features: it is a really existing social result, which is expressed in changes in the level and quality of life of the population; it can be positive and negative; it can be delayed in time; it has a long-lasting nature. It should be concluded that there is a direct correlation between the efficiency of public administration and the social effect achieved through the activities of public authorities.

The social effect model (planned output of the activity) can act as a goal, and the goal, reflecting the values of society, requires a high degree of certainty - mandatory regulatory support. The difference in understanding of the goal-ideal and the specific goals of the activity (in this case in the field of national security) should be taken into account. If specific goals of the activity can be realized by public authorities, then the goals-ideals can be achieved as a result of the joint realization of specific goals.

Scientists studying the logical and epistemological bases of human activity, expressed in the categories of “goal-means-result”, came to the conclusion on the predominant role of the used means. Means alone are capable of justifying the goal, since the result of human activity is a function of means, not a function of purpose. The importance of choosing the right tools to achieve the result is obvious. The use of funds is determined by quantitative indicators that are traditionally used as key markers of effectiveness, but which do not fully demonstrate the degree of achievement of the desired effect at this stage of state development.

The choice of legal means is conditioned by the foreseeable social effect,

which determines the activity of the public authorities for achievement, and therefore there is a clear correlation of the purpose of the authorities' activity using the legal means and the achieved social effect. The methodology for assessing the effectiveness of public administration in the field of national security should be based on a hierarchy of goals and objectives of the state policy and the distribution by levels of appropriate assessment methods.

4. Assessment of the effectiveness of the activity of public authorities in the field of national security in the context of European integration

The criteria for effectiveness are instruments of scientifically grounded methods of assessing the effectiveness of public authorities in the field of national security. The concept of the criteria in the administration has been developed in science, according to which the criteria are the measures, the most significant, often complex indicators, which allow to define, classify, and evaluate essential aspects of management activity. The criteria reveal the administrative side, may characterize the internal management cycle, part of the management system, or the entire management system. There are several approaches to developing criteria in managing security processes: private, universal, and situational.

The private approach is used to evaluate the individual system units based on one local criterion. A significant disadvantage of this approach is recognized by some one-sidedness in the analysis of multi-factorial socio-economic relations. The application of the approach does not guarantee the completeness and objectivity of the evaluation, so it is more often used in monitoring.

The universal approach, on the contrary, uses a comprehensive method of evaluating the management system, applying integrative criteria that are revealed by several local indicators, the number of which can be large. In this case there is some competition of local indicators. Depending on the goal of administrative activity, the norms of significance of indicators are determined – their significance, on the basis of which, the main or collective criterion can be determined, and the rest are distributed according to the established significance. In the monograph “Indicators of National Security: definition and application of limit values” A. Kaczynski analyzes the procedure for monitoring the effectiveness of public policy based on national security indicators and sets out its main functions [10].

Situational or pragmatic approach recognizes the overall usefulness of administrative influence. Comparative criteria are used to show that if the condition of the administrative object has improved due to managerial influence at least in one indicator and the other indicators haven't degraded, in this case such influence can be considered as effective.

None of the presented approaches gives an objective assessment of management influence. As a rule, only one line of management activity is taken into account. It is advisable to apply all approaches at once, even despite the inconsistency, the illogicality of this method. At the same time, if all the above approaches are applied, the assessment will still be incomplete, leaving a certain percentage of unaccounted management activity. The main tool for evaluating the effectiveness of an activity is an essential attribute, on the basis of which an

assessment – the effectiveness criterion is held.

The peculiarities of the criteria for the effectiveness of the activity of public authorities are aimed to achieve a balance between quantitative and qualitative indicators, ensuring their compatibility, consistency, logicity, which is expressed, on the one hand, in an effort to optimally reduce the volume of criteria without compromising the integrity of the object evaluation (ideally to one integral criterion), on the other hand – in the desire to take into account all management efforts.

In rulemaking practice, the use of the terms “criterion” and “indicator” as synonyms is considered methodologically incorrect. In the resolution of the Cabinet of Ministers of Ukraine “On approving criteria for assessing the eligibility of state aid to economic entities for research, technical development and innovation activities”, the term “criterion” defines quantitative parameters, while in the documents establishing the indicators of the activity effectiveness of local authorities, quantitative parameters are defined by the term “indicators” [11].

Solution to terminological confusion is a clear differentiation of concepts – the term “criterion” should be understood as the qualitative side of the activity of the authority, and the term “indicator” – quantitative. The problem of defining criteria will arise when the essence of the object (qualitative aspect) is insufficiently studied, and the problem of indicators arises when the incomplete representation of statistics of the phenomenon of essence (quantitative aspect) becomes noticeable. Often when solving problems in one science, researchers turn to advances in other sciences (for example, technical, mathematical, management theory), which study the general laws of management. An optimization approach to administration can be considered as one of such attainments. The term “optimal” means “best”, “perfect”, “most favorable”. The optimum is the maximum of effect at the minimum of expenses in the specific conditions of time and space.

Therefore, the criterion of optimality is the characteristic that recognizes the best possible alternatives for the system's functioning. The application of the optimal criterion provides the achievement of complete fulfillment of the goals of administrative activities with a minimum of economic, labor and material expenses in the shortest possible time. The optimal criterion is expressed in quantitative parameters, but sometimes the ordinal (qualitative) ones are used. This criterion is mainly used in mathematical models and is expressed by a mathematical formula in which the value of the activity goal is characterized by the maximum achievable effect of the simulated object.

Another possible expression of the optimality criterion is the utility rating scale, the ranking of benefits. If since the middle of the last century the task of researchers was to prove the possibility and necessity of transferring the category "efficiency" to the theory of law, then the current stage of development of legal research is aimed to find the legal expression of the criteria of efficiency. The analysis of the research allows to distinguish the general theoretical legal approach, posing the requirements for the quality of legal regulators as a necessary condition for the effective functioning of public administration.

Efficiency of the activity of the state authorities should be understood as the

activity of the institutions of the authorities aimed at achieving the set goals and tasks while minimizing the expenditure of political power resources. Efficiency should be considered as one of the parameters of the organization of the authority. Such efficiency should become a scientific construct with a fixed, specific content and its own place in the system of correlation of parameters of the specified organization [12, p. 37]. In this context, it is advisable to distinguish the formal and legal criteria of a social state, which ensures territorial integrity and sovereignty, which includes: consolidation of the principle of social state; statement in the constitution of the list of social rights; features of the constitutional status of social rights; reinforce the possibility of applying the rules of international law in the national legal system; legislative establishment of obligations of the state in the social sphere and mechanism of their realization; constitutional consolidation of legal guarantees for the realization of socio-economic rights; the presence of special bodies of state authority and other structural elements; consolidation of the rule of law; status of the law.

These evaluation criteria can form the basis of the activities of public authorities in the field of national security, since they allow the legal formalization of the elements of the effectiveness evaluation.

In accordance with this approach, it is advisable to identify the criteria for the effectiveness of legal regulators that ensure the effectiveness of legal support for the implementation and protection of human and citizen's rights and freedoms, since the latter determine the content and application of laws; stability, that is, the duration of the law when making amendments; low quantitative indicators of law enforcement acts that contradict the norms of law; absence of precedents for appealing the law in court, facts of declaring certain norms of the law unconstitutional; completeness of the regulation of relevant public relations, due to timely development and specification of the provisions of the law in by-laws normative acts; compliance of the law with the adopted by-laws; achievement of the goals of passing the relevant law; absence of gaps in legislative regulation of certain social relations.

It should be noted that these criteria are considered from the standpoint of constitutional legislation, but at the same time they are universal in view of the role of this branch in the legal system of Ukraine.

Other characteristics of the criteria form the basis of H. Atamanchuk's study. The scientist suggests to use five basic criteria to evaluate the performance of public authorities: goal orientation; spending time on solving administrative issues; style of functioning of the state-governing system; the complexity of the organization of the public administration subject, its subsystems and units; the cost of maintaining and ensuring the functioning of the state-governing system [13, p. 580].

The scientific literature proposes the classification of effectiveness criteria on several grounds. Depending on the subject composition, the criteria of effectiveness of activity can be differentiated into: the state body, its structural subdivisions, specific public officials. From the point of view of the process-result: criteria of effectiveness of administrative processes; criteria for the effectiveness of administrative results, the latter can be divided into performance

indicators: immediate, remote, summarizing. By nature of the source of the evaluation: internal indicators (implying an assessment of processes and results of the activity of public authorities and public officials); external indicators.

Efficiency is a kind of performance coefficient, productivity, productivity of social value of legal incentives and restrictions. Efficiency arises or comes out of social value, and it is confirmed by the method itself (criterion, a standard of measuring the degree of effectiveness). The importance of criteria as a system for measuring the effectiveness of public authorities' activity, reflecting the degree of achievement of the goals of activity, has been noted by many researchers. The criteria of effectiveness meet certain requirements being recognized as activity indicators of achieving effect: substantiality (or significance of detection of the really achieved result); concreteness (ambiguity, criteria are not subject to extensible or ambiguous interpretation); truthfulness (a reliable source of evidence of social development); comparability (ensuring comparability of statistical indicators); consistency (logic, compatibility; coherence, balance of criteria with each other). These requirements should be used in drawing up a list of criteria of the effectiveness of the activities of public authorities, taking into account the Agreements on Association between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand [14].

5. Conclusions

The effectiveness of the activity of public administration authorities in the field of national security is considered as the degree of achieving by legal means the goals of public policy stated in the legal form. Its magnitude is directly dependent on the following facts: the legal validity of the act fixing the goals; the social significance of the results of public influence; sufficient organizational, material and other resources. The methodology for assessing the effectiveness of the activities of public authorities in the field of national security in the context of integration into the European Union and the North Atlantic Union should be based on a hierarchy of goals and objectives of the state policy and a classification by levels of appropriate assessment methods, setting criteria of the effectiveness of public authorities' activity which are considered as the instruments of the method of the assessment of public authorities' activity in the field of national security of Ukraine.

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