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LEGAL ASPECTS OF IMPLEMENTATION OF THE FORMS AND METHODS OF INTERACTION BETWEEN THE NATIONAL POLICE OF UKRAINE AND OTHER PUBLIC ADMINISTRATION BODIES IN THE COURSE OF ANTI-TERRORIST OPERATION

The article deals with the problematic issues associated with the implementation of forms and methods of interaction between the National Police of Ukraine and public administration bodies in the course anti-terrorist operation, as well as solutions and suggestions on improving the legislation of Ukraine.

Keywords: forms, methods, interaction, public administration bodies, area of anti-terrorist operation.

The National Police of Ukraine (hereinafter – NPU) in its interaction with the public administration bodies in the course of anti-terrorist operation (hereinafter – ATO) enables every state body to perform in due time and to the fullest extent the goals set by the state leaders. As opposed to other regions of Ukraine, the government authorities within the ATO area perform the activities associated with security of territorial integrity, protection of people's rights and freedoms, of sovereignty and independence of Ukraine alongside their primary activities.

The course of the ATO within the territory of Ukrainian has unveiled the need of pre-agreed actions and clear division of responsibilities among the public administration bodies while performing the common tasks in order to achieve cohesion.

However, despite the rough conditions for taking such measures, the problem of implementation of the forms and methods of interaction between the NPU and the public administration bodies within the area of ATO remains unresolved, requiring, therefore, additional study and making the relevant urgent decisions.

In the national scientific literature, the forms and methods of the activity of the internal affairs bodies became the research target in the scientific works of S. Alforov, O. Bandurka, K. Belskyi, V. Venedyktova, V. Volynets, I. Zozulia, Yu. Kravchenko, M. Kovaliv, S. Kivalov, Yu. Kuniev, A. Lebedieva, K. Tarasenko and others. However, these scientific works have not given due consideration to the specifics of the implementation of forms and methods of interaction between the NPU and the public administration bodies within the ATO area attesting to the relevance of the problem.

The objective of the article is to develop and put forth the proposals for improving the forms and methods of interaction between the NPU and the public administration bodies within the ATO area as well as development of the recommendations for improving the legislation of Ukraine.

In order to achieve this objective, the following tasks were identified:

- to analyze the forms and methods of interaction between the NPU and the public administration bodies within the ATO area;
- to elaborate practical recommendations for the development of an effective system of forms and methods of interaction between the NPU and the public administration bodies within the ATO area taking into account the specified problems.

Ongoing ATO is a complex of coordinated special measures targeted at preventing, prediction and termination of terrorist activities, releasing hostages, ensuring public safety, neutralizing terrorists, and minimizing the aftermath of terrorist activities [1].

Article 4 of the Law of Ukraine «On Combating Terrorism» defines a list of entities directly involved in combating terrorism and engaged in the ATO [1]. One of such entities is the NPU, which, together with other public administration bodies, organizes the fight against terrorism by preventing, detecting and addressing the crimes committed for a terrorism purpose, which shall be investigated by the NPU as stipulated by the legislation of Ukraine.

The NPU in the ATO area closely cooperates with the following agencies: the Armed Forces of Ukraine (hereinafter – AFU), the National Guard of Ukraine (hereinafter – NGU), the State Border Guard Service of Ukraine (hereinafter – SBGSU), the Security Service of Ukraine (hereinafter – SSU), the State Fiscal Service of Ukraine (hereinafter – SFSU), the State Service for Emergency Situations of Ukraine (hereinafter – SSESU), the State Migration

Service of Ukraine (hereinafter – SMSU), self-government authorities and other public administration bodies.

M. Lytvyn believes that interaction is pre-agreed actions carried out by parties of interaction (partners) in order to fulfill the task with due consideration of the actions, expenses (loss) of resources belonging to interaction parties. Interaction shall be carried out under the complete certainty about the intentions and plans of parties of interaction [2, p. 27].

An interaction between the NPU and other public administration bodies within the ATO area is a bilateral continuous process coordinated by place, purpose, order, time and aimed at coordinating the actions of the abovementioned entities for the early detection, prevention and addressing of violations of public order and criminal (terrorist) manifestations using resources of each other [3, p. 44].

It is worth mentioning that the practice of interaction between the NPU and other public administration bodies within the ATO area is characterized by many forms and methods.

Form is defined as the strictly established order; the way of implementation, manifestation of a certain action [4, p. 664].

Thus, in modern scientific literature, the following main forms of interaction are identified:

- *independent actions* (carried out in the full incoordination of the subjects);

- *coordinated actions* (pre-coordinated actions performed by interacting subjects when each of them takes into account the actions of the other interaction subject in order to fulfill their task);

- *joint actions* (pre-agreed actions of the interaction subjects, performed for the purpose of fulfilling the general task);

- *assistance* (actions which require spending of some of own resources to perform the task of another subject);

- *mutual assistance* (coordinated actions performed by each of the subject of interaction (partners) which require consumption of part of their own resources to perform the task by the interacting parties and the corresponding consumption of part of their resources for other subjects of interaction) [5, p. 135].

However, in my opinion, the correct qualification of interaction between the subjects of public administration is given by Yu. Torokhtii, presented in the forms as following:

- 1) institutional – establishment of joint bodies (coordinating, consultative, advisory);

2) legal – adoption of joint acts, participation in the development of certain legal acts;

3) organizational – holding joint events (expanded boards of state administrations, extended meetings of presidium councils, seminars, conferences, round tables, community reports inspections, etc.), participation of the officials of the local state administrations in the meetings of self-government authorities or of the deputies and municipal servants in the work of state administrations;

4) informational – exchange of information on the issues of local significance (correspondence, telephone conversations, submission of draft decisions and copies of adopted acts, the use of mass media, etc.);

5) material and financial – consolidated financing of the projects of regional significance, establishment of joint ventures and organizations [6, p. 30].

However, in the context of ATO, implementation of certain forms of interaction between the public administration bodies is carried out in different ways. This causes some difficulties in the analysis and theoretical substantiation of the forms of interaction.

For example, to prevent entering the areas, controlled by the Ukrainian authorities by enemy's illegal armed groups (IAG) and sabotage-reconnaissance groups (SRG), the NPU together with the SSU, the NGU, the SBGSU, the SSESU, the SFSU and the AFU carries out countersabotage activities and takes additional filtration measures at entry-exit checkpoint (EECP) of the ATO area.

Specified interaction order is determined by the technological passage scheme for persons, vehicles and cargo (goods), approved for each EECP individually by ATO Headquarters director [7].

However, these joint measures are of temporary nature, which is a problem that negatively affects the interaction effectiveness between the actors.

During its close cooperation with the SBGSU in the ATO area, the NPU implements a form of interaction aimed at ensuring the integrity, protection and security of the state border of Ukraine.

The specific form of interaction between the NPU and the SBGSU is implementation of tasks aimed at protection and defense of life, rights, freedoms and legitimate interests of the citizens of Ukraine, the society and the state from criminal and other unlawful attacks, protection of public order and ensuring public security,

addressing terrorist activities as well as activities of IAGs and terrorist organizations.

For the NPU – the AFU cooperation the form of interaction is implemented through training and conducting joint special operations and anti-terrorism measures aimed at countering terrorism within the ATO area.

Unfortunately, today there are a lot of problems associated with the implementation of above mentioned forms of interaction between the NPU and other public administration bodies within the ATO area – mainly, duplication of functions and the lack of a clear division of powers between the actors during joint work performance.

The analysis of the legislative provisions on the interaction of law enforcement forces in the context of counter-terrorism operation brings us to the following conclusions. Thus, Art. 1 of the Law of Ukraine «On Combating Terrorism» [1] provides that the anti-terrorism operation is a complex of coordinated special means, that is, coordination of actions is necessarily required from the subjects being the main feature of interaction.

Within the ATO area, the Anti-Terrorist Center (ATC) under the SSU performs the coordination of activities of actors involved in the fight against terrorism [1]. The ATC is a permanent body under the SSU, which coordinates the activities of the subjects of countering terrorism in preventing and addressing terrorist acts against state officials, critical infrastructure, high-risk locations, as well as life and health threatening acts against significant amount of people [8].

A remarkable example of the implementation of this form of interaction in the ATO area is maintenance of public order and public security at checkpoints (CP) and entry/exit checkpoints (EECP) within the ATO area, which is supported by the NPU staff in close cooperation with other monitoring bodies and services of Ukraine and coordinated by the state border guard bodies (operational and military units) of the SBGSU, and in cases of informing about the threat of an armed assault, criminal and other unlawful attacks against CP and EECP officials, upon the decision of the ATO control operational headquarters, they are reinforced by the relevant departments of the AFU or NGU. However, in turn, organization and conduct of anti-terrorism activities, as well as coordination of the activities of counter-terrorism actors, is carried out through the ATC only [7].

This attests to the complicated procedure of the coordination of joint actions between the public administration bodies when performing the common tasks, which causes confusion and certain difficulties in their coordination.

One can agree with M. Kovaliv that the most important forms and directions of interaction, the most appropriate means of achieving a common goal in each particular case shall be identified by its subjects, on their own initiative and at their sole discretion [9, p. 187].

Therefore, it seems reasonable to allow the public administration bodies to make appropriate decisions in case of the circumstances requiring decisive action and urgent decision-making without seeking management's approval.

Thus, O. Kryvenko believes that common participation in joint special operations conducted to prevent and address violations of law and order and criminal activity, public order protection at specially fitted stationary posts (the so-called checkpoints) and during patrolling, as well as hostilities should be the forms of interaction between the NPU and other public administration bodies within the ATO area [3, p. 45].

In addition, the interaction between the NPU and the SSU differs from the interaction with other public administration bodies as all anti-terrorist measures, both joint and individual, under the ATO, shall be coordinated with the ATC at the SSU, which is notably uncomfortable and time-consuming procedure.

I believe that the form of interaction between the NPU and other public administration bodies within the ATO area is a kind of communication between the NPU employees and other public administration bodies, which takes place within the territory established by the legislation of Ukraine [10], to ensure the independence of the state, its national security, restoration of infringed constitutional rights and freedoms of man and citizen.

Thus, the forms of interaction between the NPU and other public administration bodies within the ATO area should be implemented by:

- holding joint meetings, seminars, plenums, meetings to establish constructive and close cooperation;
- arranging forces and resources when performing joint work;
- instructions provided before holding joint events;
- informing about social and economic, military and political, strategic and operational environment;

- simplification of procedures for the coordination of joint actions of the NPU with the public administration bodies for making urgent decisions and improving efficiency;
- ensuring administration of interaction and organization of coordinated work by the coordinating bodies;
- holding joint training sessions and trainings on interaction in the event of emergencies and others.

Due to such implementation of the forms of interaction between the NPU and the public administration bodies, existing problems shall be resolved. In addition, the actions of the entities as a part of the ATO, when performing common tasks, will be coordinated and organized.

Methods are another important constituent of the interaction between the NPU and other public administration bodies within the ATO area.

It worth noting that the concept of «method» has no general definition in the scientific literature, as each field of social relations interprets it in different way. In modern Ukrainian language «method» is identified as a way of conceiving the phenomena of nature and social life; the practices or a system of practices used in any field of activity; the way of action [4, p. 203]. Legal literature defines the methods of interaction between the public administration bodies as a set of scientifically based statutory methods and ways by which the proper organization and implementation of this interaction is ensured [11, p. 99].

Along with this, the method of interaction between the public administration bodies is a means of coordinating influence of the ATO participants, which helps to resolve the performance targets, to execute the corresponding functions and to achieve the specified goal.

The theory of administrative law rests the direct implementation of the interaction between the public administration bodies on the following methods:

- administrative (presumes the influence of the public administration body on its object through the regime of authority and administration instructions and organizational and structural orderings);
- organizational (management tools that are not regulated by law in detailed manner, though are necessary for successful coordination);

- social and psychological (organizational subordination of subjects and implementation through powers of authority or direct influence);

- economic (complex of economic means, practices, levers, used to ensure the high efficiency of public administration) [11, p. 99].

The interaction between the NPU and other public administration subjects within the ATO area is implemented based on the following methods:

- forecasting method (used through accumulated experience and preliminary analysis taking into account existing gaps to prevent them in future, foreseeing possible law and order and safety violations within the ATO area and timely response by the NPU and other public administration bodies);

- planning method (comprehension of judgments that make it possible to draw the reasonable conclusions and trace how certain actions will affect the interaction development, optimization of time spent and the rational use of forces and means by the NPU units and other public administration bodies for carrying out certain measures targeted at minimization of offenses within the ATO area);

- acts and decisions approval method (achievement of arrangements between the actors by setting a common goal and division of responsibilities pertaining to service, timely resolution of the issue of allocation of addition forces and resources from the NPU in support of the SBGSU in order to strengthen the state border within the ATO area);

- control method (coordination to keep rigorous compliance with powers and responsibilities by the NPU and other public administration bodies during the ATO, preventing abuse of power and violations of Ukrainian legislation by the NPU and other public administration bodies during the detention of individuals who have committed offenses within the ATO area);

- method of information support (provision of certain information for ensuring the effective performance of the assigned tasks, ensuring the NPU orientation and possessing of the information while performing common tasks pertaining to service together with other public administration bodies within the ATO area);

- instruction method (providing instructions before conducting joint measures for mutual understanding between the bodies during their interaction, avoiding duplication of responsibility areas between

the public administration bodies while protecting public order and security within the ATO area);

– method of personnel management (training of highly skilled specialists for the achievement of common goal, particularly, by carrying out public preventive and explanatory work by the NPU staff together with other public administration bodies (adhering to polite and tactful attitude towards citizens) regarding the strict observance of the rules of conduct in public places and prevention of offenses within the ATO area).

Thus, following the analysis of the relevant legislation and practice of its application, an important problem related to the implementation of the forms and methods of interaction between the NPU and the public administration bodies within the ATO area was revealed, which is the lack of proper legislative regulation of the mechanism of such interaction.

In addition, the practice of interaction between the NPU and the public administration bodies within the ATO area is defined by many forms and methods. However, existing interaction forms and methods need to be arranged into a particular system. This would simplify their perception, analysis and theoretical substantiation and provide an opportunity to develop practical recommendations for their implementation through consolidation in the agency-level legislative acts of Ukraine.

To sum up, it should be noted that specified problems are associated with the lack of a single regulatory act defining forms and methods of interaction between the NPU and other public administration bodies within the ATO area.

Improving legislation is one of the main preconditions for ensuring legality and adequacy of interaction forms and methods legal regulation. In addition, resolution of existing problems and elimination of legislation gaps by the means of state support is of great importance for carrying out the dramatic shifts aimed at joint overcoming of terrorist threats and armed aggression within the territory of our independent Ukraine.

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