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ROLE OF THE PROSECUTOR'S OFFICE IN THE NATIONAL SYSTEM OF FIGHTING TERRORISM IN UKRAINE

ROLA PROKURATORY W OGÓLNONARODOWYM SYSTEMIE ZWALCZANIA TERORYZMU NA UKRAINIE

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Abstract:

The paper presents the research on the Role of the Prosecutor of Ukraine in the national system of counteracting terrorism. In the paper the author undertook an attempt of the analysis of Ukraine legislative system in the field of current (as of 30/09/2018) legal tools to counter terrorism, including Constitution of Ukraine, Prosecutor of Ukraine Law, National Security Law and the Act on combating terrorism.

Keywords: Prosecutor of Ukraine, terrorist activity, struggle, state


Streszczenie:

Artykuł poświęcony został badaniu roli Prokuratury Ukrainy w krajowym systemie przeciwdziałania terroryzmowi. W artykule autor podjął próbę analizy ustawodawstwa Ukrainy w zakresie aktualnych (wg stanu dzień 30.09.2018r.) narzędzi prawnych do przeciwdziałania terroryzmowi m.in. Konstytucji Ukrainy, Ustawy o prokuratorze Ukrainy, Ustawy o bezpieczeństwie narodowym Ukrainy oraz Ustawy o zwalczaniu terroryzmowi.

Słowa kluczowe: Prokurator Ukrainy, działalność terrorystyczna, walka, państwo

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Statement of the problem in general outlook and its connection with important scientific and practical tasks

World globalization has generated large-scale problems, which quickly invaded to the life of modern society, placing humanity in a situation from which it had not previously met. In current conditions of local terrorism has become a global phenomenon that required a rethinking of the values that formed the basis of civilization. As a result, the problem of terrorism is part of a system of global issues, because it provides notable influence on the world historical process. This phenomenon is one of the vital issues that are global in nature, the solution of which depends on the continued existence and development of humanity. Without going into issues of definitions and concepts of value "terrorism" and "terrorist activities", the authors will use in their scientific article the term "terrorist activity". Rationale for this position given in previous scientific works [1; 2].

Effective countering terrorism is possible only if the interaction of all state bodies determined by the Law of Ukraine "About National Security of Ukraine" (subjects of national security of Ukraine) and the Law of Ukraine "About Combating Terrorism" (actors fight against terrorism) and implementation put them statutory powers aiming to minimize terrorism risks.


Based on the Article 4 of the Law of Ukraine "About Combating Terrorism" prosecutors Ukraine is not related to the subjects of to combat terrorism. However, in their functions prosecutors Ukraine takes an active part in the national system to combat terrorism, as evidenced by recent events in Ukraine, particularly in the east of the state. All the above makes the actuality of the chosen research theme which proposed to discuss in the scientific article and where will appear the subjective opinions of the authors on said in the title discussion questions.

Aims of paper. Methods

On the basis of current legislation of Ukraine - clarify the role of prosecutors of Ukraine in the national system of combating terrorism. Unfortunately in Ukraine has not been investigated question the role of prosecutors of Ukraine in national system of combating terrorism.

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Exposition of main material of research with complete substantiation of obtained scientific results.

Discussion

Based on Article 2 of the Law of Ukraine "About the Prosecutor's Office of Ukraine" prosecutors rely on four main functions: public prosecution in court; representation of citizens or the state in court in cases determined by this law; supervise the observance of laws by bodies that conduct detective and search activity, inquiry and pre-trial investigation; supervise the observance of laws in the execution of judgments in criminal cases, and also in application of other measures of coercion related to the restraint of personal liberty of citizens.

Let us analyze these functions through the prism of conduct in the state anti-terrorist operation, which began with the entry into force of the Decree of the President of Ukraine "About the decision of the National Security and Defense Council of Ukraine on 13 April 2014" About urgent measures to overcome the terrorist threat and the territorial integrity of Ukraine "dated April 14, 2014 № 405/2014.


Analysis of the current legislation of Ukraine provided an opportunity to note that the Law of Ukraine "About National Security of Ukraine" Prosecution of Ukraine determined the subject of national security. Law of Ukraine "About National Security of Ukraine" provided that under Article 9 of the Law Prosecutor of Ukraine exercises authority in the national security of Ukraine in accordance with the Constitution of Ukraine and the Law of Ukraine "About the Prosecutor's Office of Ukraine".

In addition to defined functions prosecutors Ukraine (the Law of Ukraine "About the Prosecutor's Office of Ukraine"), the Law of Ukraine "About National Security of Ukraine" as defines the functions the national security entities Ukraine, which include:

- the development and periodic refinement of Ukraine National Security Strategy and Military Doctrine of Ukraine, doctrines, concepts, strategies and programs in national security, planning and implementing concrete measures to counter and neutralize threats to national interests Ukraine;
- creating the legal base necessary for the effective functioning of the National Security;
- improving its organizational structure;
- complex human, financial, material, technical, information and other life support components (structural elements) system;
- preparation forces and means of subjects system to their use in accordance with the purpose;

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- continuous monitoring of the impact on national security processes in the political, social, economic, environmental, scientific, technological, informational, military and other areas, religious environment, inter-ethnic relations; prediction of changes occurring in them, and potential threats to national security;
- systematic observation of the manifestations of international terrorism and other;
- prediction, detection and assessment of possible threats, destabilizing factors and conflicts, their causes and effects of display;
- development scientifically grounded proposals and recommendations to management decisions to protect the national interests of Ukraine;
- prevention and elimination of influence of threats and destabilizing factors in the national interest;
- localization, de-escalation and conflict resolution and liquidation of their consequences or effects of destabilizing factors;
- estimation of action to ensure National Security and costing for these purposes;
- participate in bilateral and multilateral security cooperation if it meets the national interests of Ukraine;
- joint planning and conducting operational activities within international organizations and agreements in the sphere of security.

Availability authority specified in the Law of Ukraine "About National Security of Ukraine" makes a different look at the role of prosecutors in Ukraine in the national system of fighting terrorism.

Law of Ukraine "About National Security of Ukraine" determined that at this stage the main, real and potential threats to Ukraine's national security, stability in society in sphere of national security is the spread of international terrorism. As a subject of national security prosecutors Ukraine can be involved in creating the regulatory framework necessary for the effective functioning of the national security system, particularly in combating terrorism. In particular, the practical by the National Academy of Prosecution of Ukraine participate in the development and independently develop scientifically grounded proposals and recommendations to management decisions to protect the national interests of Ukraine. Also, participate in complex human, financial, material, technical, informational and other maintenance components (structural elements) systems, in particular, can be done at the National Academy of Prosecution of Ukraine through personnel support components of the system, including in the form of a special training of candidates for prosecutor training for prosecutors for Prosecutor's Office of Ukraine, as a subject of national security of Ukraine. At the same time, the possible part in joint planning and conducting opera-

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tional activities within international organizations and agreements in the sphere of security.

There is a need for more detailed analysis of each function defined by the Law of Ukraine "About National Security of Ukraine". At the same time, focus our attention on the role of prosecutors in Ukraine the national system of fighting terrorism.


Law of Ukraine "About Combating Terrorism" in Article 5 defines that the Security Service of Ukraine carries out the fight against terrorism by conducting search operations and counterintelligence activities aimed at prevent, detect and prevent terrorist activities, including international. However, the Law of Ukraine "About the Prosecutor's Office of Ukraine" on prosecutors in Ukraine relies supervise the observance of laws by bodies conducting operational-search activities. Besides the Security Service of Ukraine, the prevention, detection and suppression of crimes committed with a terrorist purpose by carrying out search operations exercises and the Ministry of Internal Affairs of Ukraine and the central executive body that implements the state policy in the sphere of protection of the state border and border protection the fight against terrorism by preventing, detection and suppression of attempts by terrorists crossing the state border of Ukraine, illegal movement across the state border of Ukraine of weapons, explosive, poisonous, radioactive substances and other items that can be used as a means to commit terrorist acts.

In addition, Article 7 of the Law of Ukraine "About counter-intelligence activities", provides that the supervision of the observance of laws during the counter-intelligence activities carried out by the Prosecutor General of Ukraine, the acting or authorized by order of the Prosecutor General of Ukraine Deputy Prosecutor General of Ukraine. Taking into account the fact that Prosecutor of Ukraine supervises the observance of laws during the pre-trial investigation in the form of pre-trial investigation procedure management, conducting safety investigation authorities, in accordance with Article 216 of the Criminal Procedure Code of Ukraine, on grounds of crimes under Articles 258-258-5 of the Criminal Code of Ukraine and state accusation in court for this category of cases is unjustified lack of prosecution of Ukraine in the list of combatting terrorism or of those taking part in the fight against terrorism - Article 4 Law of Ukraine "About Combating Terrorism".

Based on the analysis of the legislation above, we can conclude that the prosecutor's office as part of the function - supervise the observance of laws by bodies conducting operational-search activities, preliminary investigations involved in the fight against terrorism in a way defined by the Law of Ukraine "About the Prosecutor's Office of Ukraine" and the Criminal Procedure Code of Ukraine.

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It should be noted that the results in 2014 Ukraine took 12th place in the Global Terrorism Index, in 2015 Ukraine remained according to experts at the 12th place in that index terrorism. By 2014, statistics showed that our state terrorist was not typical. During the years 2001-2013 in the investigation of Security Service of Ukraine was 19 criminal cases initiated by the Security Service of Ukraine, prosecutors and the Ministry of Internal Affairs of Ukraine, on grounds of crimes under articles of the Criminal Code of Ukraine 258-258-5.

During 2014 the number of crimes classified as terrorism increased 293 times (from 7 to 2053). Most of the Lugansk (931), Donetsk (886), Odessa (45), Kharkiv (39), Dnipropetrovsk (22), Zaporizhzhya (15), Nicholas (14) regions and on the road (42). Indicators of statistics on Criminal Situation in Ukraine, preliminary investigation of pre-trial investigation for 10 months of 2015 show an increase of crimes classified as terrorism (st.st.258, 258-1, 258-2, 258-3, 258-4, 258-5 of the Criminal Code of Ukraine) by almost a third (from 1755 to 2254, or + 28.4%) as compared to 2014. Most of these crimes in Luhansk (1117), Donetsk (939), Odessa (46), Kharkiv (26), Dnipropetrovsk (13) regions, Kyiv (22).

Within the grounds of the above thesis additionally should refer to article 31 of the Law of Ukraine "About Combating Terrorism" which defines that supervision over compliance with legislation by participating in anti-terrorist activities carried out by the Prosecutor General of Ukraine and authorized them to prosecutors in the manner specified laws of Ukraine.


In addition, the antiterrorist legislation of Ukraine Prosecutors Ukraine endowed with the exclusive right to apply for bringing the organization responsible for terrorist activities. Thus, Article 24 of the Law of Ukraine "About Combating Terrorism" provides that such a statement submitted to the court under the Prosecutor General of Ukraine, prosecutors of the Autonomous Republic of Crimea, Kyiv and Sevastopol in accordance with the law.

Special attention is given the function Prosecutors Ukraine defined in Article 121 of the Constitution of Ukraine - supervise the observance of the rights and freedoms of citizens, particularly the observance of laws on these subjects on combating terrorism as defined in Article 4 of the Law of Ukraine "About Combating Terrorism" as in the area of counter-terrorist operations and in Ukraine in general under counter terrorist activities.

Law of Ukraine "About Combating Terrorism" provides a section that regulates the compensation for damage caused the terrorist act and rehabilitation of victims of terrorist act.

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In Article 19 of the said Law defined that compensation for damage caused to citizens terrorist act carried out by the State Budget of Ukraine according to the law and the followed by collection of the amount of compensation from persons who have suffered damage in the manner prescribed by law.

So, our government gives guarantees citizens compensation for damage caused during the commission of terrorist attack.

Article 20 of this Law guaranteed social rehabilitation of victims of a terrorist act with the aim of returning them to normal. The said persons provided if necessary psychological, medical, professional rehabilitation, legal aid and housing and by their employment.

Procedure for social rehabilitation of victims of terrorist act approved by the Cabinet of Ministers of Ukraine dated July 28, 2004 № 982.

A number of important provisions set out in international treaties. Related issues of human rights in that sphere provided in the "Convention against torture and other cruel, inhuman or degrading Degrading Treatment or Punishment", "International Convention against the Taking of Hostages", Resolutions adopted by the UN General Assembly on human rights and fundamental freedoms while countering terrorism, and others.


Not accepting into account the legal regulation of this issue is a real concern about the situation of human rights in Ukraine, taking into account developments in the East of our country. In Ukraine, enough remember the history of Roman Kapatsiy soldier counter-terrorist operation who was a prisoner of militants 32 days. During the stay in representatives of illegal armed groups was subjected to torture and died later after release.

Conclusions

The above provides reasonable grounds to say that Ukraine's Prosecutor is directly involved in the fight against terrorism through the implementation of its functions under the Constitution of Ukraine, laws of Ukraine "About the Prosecutor's Office of Ukraine", "About National Security of Ukraine", "About Combating Terrorism". Based on this, we consider enough reasoned expediency of prosecution Ukraine in the number of subjects under Article 4 of the Law of Ukraine "About Combating Terrorism", which will carry out the fight against terrorism within the competence defined by current legislation of Ukraine. The authors understand that reflected offer is discussion, because they continue to try to investigate the said issue for its justifi-

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cation on the basis of their own scientific research and available to the scientific community works in the field, which was investigated.

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