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**THE CONTENT OF HUMAN RIGHTS FOR SECURITY  
IN THE HUMAN RIGHTS SYSTEM IN THE ASPECT  
OF ENSURING THE NATIONAL SECURITY OF UKRAINE**

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**Abstract.** The article is devoted to the study of the nature of the content of human rights to security, its features and components, as well as to clarify the role of such rights in the field of national security of Ukraine. The methodology of studying the nature of human rights as an important element in the mechanism of national security in general is based on the provisions of the general scientific dialectical method of scientific cognition. The position is substantiated, according to which in the modern realities of the implementation of the rule of law and the establishment of the principles of sustainable development of Ukraine, the key task is to guarantee the rights and freedoms of man and citizen. Consequently, the content of human rights to security is the key that determines the start and functioning of the security mechanism of the state as a whole, and therefore requires a study of its nature and content. For a full and thorough revelation of the topic, the article also uses formal and legal and formal and logical scientific methods. It is argued that in modern conditions the main components of human rights on security are: 1) Natural human rights; 2) constitutional right and freedom of man and citizen; 3) Personal right to security in a broad and narrow meaning. The last part requires a separate scientific understanding in the context of forming a modern doctrine of natural security of Ukraine in order to increase the level of Ukrainian society credibility in the legislative, executive and judicial authorities in Ukraine, effective fight against corruption, increasing the level of political and legal culture in society, development virtuous and non-discriminately society, united by both respect for the defense forces and respect for the law, enshrined in current legislation. It is emphasized, that the main objects of national security of state are citizens - their constitutional rights and freedoms, as well as life and health. According to this, the main purpose of every legal and democratic state, which determines the person as highest social value is to ensure proper living conditions, preserve health, honor, dignity, right for self-recognition and of course private property. It is proved, that further prospects of Ukraine's integration into European Union, first of all, depends on the states of national security within the country, namely on its components such as economic, environmental, food and information security. It is determined that the prospects for future scientific research in this area will be scientific developments to improve existing legislation that guarantees respect for human rights to security.

**Key words:** National security; Rule of Law; Informational security; Human Rights; Human Rights doctrine

**Introduction.** Human rights are universal value and guarantees that security of individuals and their groups from actions and inactions, primarily by the governmental power, which may conflict with fundamental rights, freedoms and human dignity. The full range of human rights implies respect, protection and realization of civil, economic, political and social rights, and also right to development. Human rights are universal in nature – in other words, they are inalienable attributes of each person – interrelated and indivisible (Статут Організації Об'єднаних Націй і Статут Міжнародного Суду, Загальна декларація прав людини, прийнята і проголошена резолюцією 217 А (III) Генеральної Асамблеї ООН від 10 груд. 1948 р., Венская декларация и программа действий : прин. на Всемир. конф. по правам человека, 25 июня 1993 г.). The modern concept of national security significantly expands system of factors, influencing on state in country. In recent years national secu-

urity has been determined mainly by the degree of willingness of our armed force to oppose external military threats, improve the state's defense capability, and use of new equipment and technology in the area of armaments. Attention was paid mostly on the economic development, modernization of economy, moral education, factors that needs to ensure Ukraine's entry into world political alliances. However, in modern realities implementing of rule of law and establishing the principles of sustainable development of Ukraine, a key task comes to the fore – to guarantee all rights and freedoms of person and citizen. Therefore, the content of human rights to security is a key, that determines start and functioning of state's security mechanism as a whole, and therefore requires research into its nature and content.

The scientific and theoretical basis of the study were the works of domestic and foreign researchers, including: V. Antonov, I. Aristova, V. Abramov, P. Bogutsky, E. Kobko, M. Kryshtanovich, T. Kurman, V. Nosik, M. Pushak, G. Sytnyk, V. Smolyanyuk, E. Titko, J. Fleichuk, H. Yuskiv and others. Despite the development of a number of theoretical and applied studies of certain aspects of the theory of national security, the essence and content of human rights and freedoms in the mechanism of its provisions have not been studied or established to date.

**The purpose and objectives of the study.** The purpose of the article is to clarify the essence of human rights and freedom in the system of human rights in the aspect of ensuring national security of Ukraine.

The methodology of this scientific research consisted of general-scientific and special-scientific methods of cognition such as: the dialectical, formal-legal method, formal-logical and developed in jurisprudence such techniques and methods of interpretation of law (linguistic, systematic, logical) and linguistic methods (contextual and component).

**Presentation of the main material.** In jurisprudence, national security policy is not understood as any actions and measures of state, as those, through which the interests of citizens, society and the state are reconciled. It is aimed at ensuring the protection a) nature as a sphere of existence of man; b) man, his rights and freedoms; c) social groups, their status, functional roles and identity; d) society – its spiritual and material values; e) the state, its sovereignty, territorial integrity, inviolability and political independence. Despite the fact, that in 2003 the Law of Ukraine «On Fundamentals of National Security of Ukraine» (repealed by Law № 2469-VIII of June 21, 20218 (Про національну безпеку України : Закон України від 21 черв. 20218 р. № 2469-VIII)) determined the main directions of state policy on national security, however, unfortunately, this policy still remains somewhat fragmented, unbalanced and quite controversial. This is a largely the result of the lack of qualified analysis and prediction of state policy on national security, and also the effective mechanism of its implementation (Ситник Г. П., 2010, с. 7, 8). In this regard, the main landmark and vector must be aimed on balancing guarantees of respect for human and civil rights and freedoms in the system of national security as a whole. V. Antonov presumes, the degree of protection of human and civilian rights and freedoms from their violation is determined by the level of guarantee of each of these rights and freedoms. According to the principle of guarantee of human and civil rights and freedoms, their consolidation is carried out both directly in the Constitution of Ukraine and in the current legislation. The state must choose a course, which can ensure national security in order to create favorable conditions for social development, as well as ensuring the protection of vital interests of the individual, society and the state from external and internal threats can be called national security policy. Its main goal and content is to ensure safety of important interest of Ukraine, as well as free development of person and flourished of all society and state (Антонов В. О., 2017, с. 501).

Approved by the Decree of the President of Ukraine of March 14 2016, № 92/2016 The Concept of Development of the Security and Defense Sector of Ukraine focused on determination ways to build national security and defends capabilities that will restore Ukraine territorial integrity within the internationally recognized state borders, to guarantee a peaceful future of Ukraine, as a sover-

eign and independence, democracy, social and legal state, and also ensure the creation of national crisis response system, timely detection, prevention and neutralizing of external and internal threat to national security, guarantee personal safety, constitutional human and civil rights and freedoms, cybersecurity, rapid joint response to crises and emergencies (Про рішення Ради національної безпеки і оборони України від 04 березня 2016 року «Про Концепцію розвитку сектору безпеки і оборони України»). It is important to collectively use information and communication technologies for political and democratic practices both on the Internet and offline, to ensure cybersecurity, rapid joint response to crises and emergencies.

At the same time the main objects of national security are citizens – their constitutional right and freedoms, and also life and health. Consequently, the main purpose of every legal and democratic state, which determine person as a highest social value, is to ensure proper living conditions, preserve health, honor, dignity, the right to self-recognition and of course private property (Кобко Є., 2018, с. 113] However, in different cases, a person can be both an object and subject of legal relations in the field of national security.

According to P. Bogutsky, which should be supported, the law of national security determines a person as a highest subject of law, which subjectivity is justified by the legal nature, directly depends on ability to ensure national security. In the view of this, important right of human existence – the right to life, in fact proclaims the basic idea of national security in its anthropological sense. Other right and freedoms of person confirm and deploy the properties of the legal person as a subject of the law of national security and existing social relations, strategic communications (Богуцький П. П., 2020, с. 328).

The assessment of the process of ensuring national security is an important fact of interaction between society and state, because in democratic countries the element of national security policy is public control over the activity of governmental power on implementation of the national interests, and the degree of participation of civil society institutions in this policy is an indicator of democratic development of the state. The influence of civil society institutions on state policy in any sphere of life of society depends on the level of public organization, preparedness and viability of citizens and their association, in practice to defend democratic rights and freedoms, which is largely determined by the financial and organizational independence of these institutions, availability of mechanism to influence on the formation and implementation of national security policy. At the same time, the effectiveness and results of the activity of civil society institutions in monitoring on the process formation and implementation of national security policy primarily depends on: 1) legal support of activity of civil society institutions and the existing in society of the tradition of citizen's implementation of constitutional rights and freedoms in the context of ensuring national security; 2) clarity of the division of functions, authority and responsibilities between branches of government; 3) real, not declared independence of judicial power; 4) the existence of non-governmental information- analytical and research institutions, whose sphere of activity is the problems of national security; 5) the degree of maturity of civil society and the ability of citizens of Ukraine to fully implement the constitutional powers of the main source of power (В. І. Абрамов та ін. ; за заг. ред. Г. П. Ситника, 2016, с. 819, 920).

Citizens of Ukraine take a part in civil control through public associations which of they are members, through local council deputies, personally by to the Commissioner of the Verkhovna Rada of Ukraine for Human Rights or state bodies in the manner prescribed by the Constitution of Ukraine, the Law of Ukraine «On public associations» and other laws of Ukraine. The sphere of public supervision may be limited exclusively by the Law of Ukraine «On State Secrets». Citizens who believe that their rights, freedoms or legal interests have been violated by decisions, actions or inactions of the security and defense sector or their officials, have a right to appeal to the court, Commissioner of the Verkhovna Rada of Ukraine for Human Rights, use any other protection mechanism of rights and

freedoms provided by the legislation of Ukraine (Articles 10, 11 of the Law of Ukraine «On National Security of Ukraine»).

A separate component of the mechanism of human rights in the national security system is the protection of its subjective rights, in particular such as the right to food security and the right to protection of subjective land rights.

The process of improving of legal regulation of public relations for the protection of human rights in the system of ensuring national security is currently underway. Thus, the Law of Ukraine «On national security of Ukraine» provides for the development of the Strategy of Public Security and Civil Protection of Ukraine, is a long-term planning document developed on the basis of the National Security Strategy of Ukraine based on the results of the review of public security and civil protection and determines the direction of state policy to guarantee security of the vital for the state, society and personal interest, rights and freedoms of man and citizen, the whole and expected results of their achievement, taking into account current threats. This act has not yet been adopted, that requires intensification of work of the legislative in this area. The urgent need of today is the development and adopting of a special Law of Ukraine "On Food Security". Indeed, in recent years in Ukraine there has been a tendency towards minimally satisfactory food security, indicators of food independence, which are determined by the Resolution of the Cabinet of Ministers of Ukraine "Some issues of food security.". Indicators, that characterize the consumption of certain food groups by the population of Ukraine and determines, that level of food security have fallen to a critical level. For example, level of meat consumption in Ukraine is 70% lower than in France or USA, and 65% lower than from Germany. About condition of the so-called "hidden hunger" is also evidenced by the deficiency in the diet of the population of the main macro- and microelements. In special document there should be enshrined: A) definition of basic concepts, primarily the category of «food security» and so on.; B) a system of qualitative criteria and quantitative indicators of food security, which should be supplemented by a nomenclature criterion (or the criterion of assortment, balance); C) a list of internal and external threats of national food security (political, economic, ecological, social, production and technological, legislative, etc.); D) the procedure for their monitoring and prediction, forms and mechanism to counter these threats with the identification of possible instruments of state support for agricultural producers and protection of the domestic food market; e) functions and competence of public authorities to ensure food security of the state, etc. (Курман Т. В., 2019, с. 155, 156).

Protection of land rights, including the Ukrainian people as the main holder of the right of land ownership in Ukraine is especially relevant with the introduction on July 1, 2021, of the agricultural land market in connection with the entry into the force of the Law of Ukraine from 31 March 2020 № 552- IX «On Amendments to Certain Legislative Acts of Ukraine Concerning the Circulation of Agricultural Lands». After all, lands of this purpose that make up almost 70 percent of the state's territory and in fact the question of the territorial integrity of the state ultimately depends on the guarantees of protection of land rights of the owner of such land. This is rightly emphasized by Professor V. Nosik, arguing that territorial integrity as a constitutional guarantee of the Ukrainian people or on their behalf by state authorities and local authorities right on ownership means also indivisibility of land as a state territory between individual sovereigns, and is the basis of enshrine in the Constitution of Ukraine the administrative-territorial structure of the state and divide authorities between state and local authorities, including also the sphere of land ownership (Hocik B. B., 2007).

Given the systemic nature of environmental problems, their organic correlation with all political, social and economical aspects, environmental security of Ukraine is also one of the fundamental components of national security, the essence of which lies in the state of protection of the natural, as well as natural and man-made environment, which has to provide development of the vital interests of the individual, society and the state as a state of effective protection form a combination of factors that create danger or threats to their existence. Analysis of the effectiveness of interaction with civil



society included in the sample of public authorities shows that, operating in a common social environment, guided by uniform regulations, organizational capabilities and different institutions have different attitudes to using the tools of interaction they have. Creating an appropriate system of environmental security means meeting the environmental requirements of the ecosystem, which should take a prior over other aspects of traditional national security. This system helps to identify and eliminate ecological threat in local, regional and global scales such as environmental disasters and man-made disasters. Ensuring environmental security through the system of environmental safety is a main way to solve existing environmental problems and guarantees the citizens of Ukraine development and living in a biosphere-compatible form (Криштанович М. Ф., Пушак Я. Я., Флейчук М. І., Франчук В. І., 2020, с. 210, 217). Thus, the human right to environmental security also an element of the national security system of the state.

In addition, to the analyzed components of the protection of human right in the system of national security in the future, as well as today, the information or cybersecurity of person. As I.V. Aristov states, the main long-term goal of Ukraine's state information policy is the formation of an open information space of an integral state, its integration into the global information space, taking into the account national specificities and interests ensuring informational security at the international levels (Арістова І. В., 2000, с. 30). Therefore, informational security of a person is not only an element of the right to security, but also a special subjective human right to freedom, as well as guarantee of the protection of honor and dignity (Поляков Л., 2021).

Further prospect of Ukraine's integration into the European Union, primarily depends on the state of national security within the country. After all, rightly noted by L. Polyakov [Поляков Л., 2021, с. 101], in Ukraine and EU both have the same fundamental values, that need to be preserved and secured. In particular, the value condition for accession to the EU, according to the Treaty on European Union, is the observance by the candidate country principle of freedom, democracy, respect for human rights and fundamental freedoms and the rule of law; readiness to build trust, stability, independence and the effectiveness of institutions that guarantee democracy and the rule of law. As for Ukraine, declaring its intention to join the EU our country, absolutely, share such values, and even proved that it is ready to defend them.

Prospects for Ukraine's integration depend on the state of national security within the country, because the values that need to be preserved and secured are completely the same. The condition for accession to the EU is the observance by the candidate country of the principles of freedom, democracy, respect for human rights and fundamental freedoms and the rule of law; readiness to strengthen the trust, stability, independence and effectiveness of institutions that guarantee democracy and the rule of law, that by declaring its intention to join the EU, our country certainly shares such values, and has even proved its readiness to defend them.

**Conclusions.** The main content of human rights to security in the system of human rights in Ukraine are natural, constitutional and other rights, guarantees of protection and realization of which are indicators of the civilized development of the state. The future of human rights in the mechanism of ensuring national security will be based on three main elements: 1) natural human rights; 2) constitutional rights and freedoms of man and citizen; 3) the personal right to security in the broad and narrow senses. The last category requires a separate scientific understanding in the context of the formation of modern doctrine of national security in Ukraine in order to increase the level of confidence of Ukrainian society in the legislative, executive and judicial authorities in Ukraine, effective anti-corruption, political and legal culture in society, development of a virtuous and non-discriminatory society, as respect to the defense forces and respect for the law. These and other provisions declared in the current legislation require implementation at the regional level, including in the Strategies for the development of territorial communities in all regions of the state.

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