

LEGAL DIMENSION OF THE STATE SCIENTIFIC POLICY OF UKRAINE

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Abstract. At the present development stage of Ukrainian society, the fact of absence of conceptual understanding of the content of state scientific policy and mechanisms of its formation and implementation is stated. The above stipulates the need to formulate a complete and perfect theory of state scientific policy and its legal confirmation. *The purpose* of the article is to formulate the author's conception of the state scientific policy and substantiate the necessity of its legal consolidation in Ukraine through the prism of the analysis of provisions of the current legislation, as well as the critical study of works of modern scholars. Achievement of the formulated purpose is carried out by means of complex and consistent application of the corresponding scientific tools presented by such *methods* of scientific knowledge as: logical-semantic, system, structural-logical, methods of grouping, deduction, induction, analysis and synthesis, etc. *Results.* In the article, an analysis of scientific developments devoted to the clarification of the content of the state scientific policy is carried out. The author succeeded in establishing that state scientific policy is often viewed from structural positions, that is, as a formation consisting of a certain set of elements. In the author's opinion, such an approach is somewhat mechanical, since those many connections and factors that ensure its smooth functioning remain out of sight. In order to solve this task, as stated in the article, it is necessary to nominate and consolidate the state scientific policy at the legislative level as a strategy and tactics of state activity in the field of science that corresponds to national interests and international standards. As a summary, *the conclusion* is drawn that modernization of legal acts in the field of science should consist in harmonizing legal principles with European standards, creating legal grounds for building a modern national scientific system. The development and adoption of the Law of Ukraine "On State Scientific Policy of Ukraine" deserves, in the author's opinion, the priority attention among the problems to be solved in the legal sphere on issues of state scientific policy of Ukraine.

Key words: policy, state policy, state scientific policy, public administration, science, grounds, development, efficiency, legal consolidation.

JEL Classification: K00, K1

1. Introduction

Against the backdrop of the globalization challenges, historically developed forms of organization of science cannot remain unchanged, so there is an urgent need for the transformation of state policy in connection with the transition from exclusively state science to the creation of new mechanisms for public administration, sources of funding and organization of scientific activities. In addition, due to the complication of the public administration object, in which market elements appeared, effective mechanisms should be developed

that would ensure the development of science and, at the same time, create conditions for improving its economic and social efficiency.

Various theoretical substantiations of state scientific policy in general and in Ukraine in particular are found in the scientific works of such well-known scholars as: A. Abdulov, A. Azizov, V. Arutiunov, A. Bezborodov, O. Vahanov, H. Volkov, L. Hokhberh, N. Hordieieva, D. Hvishiani, A. Hudkova, O. Dynkin, H. Dobrov, S. Zdioruk, H. Kalytych, D. Karkavin, K. Korzhavin, V. Kremen, B. Liebin, B. Malitskyi,

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In recent years, the Ukrainian state has been actively involved in creating elements of a market innovation system and adapting science as its most important element to new political, social, and economic conditions. However, the actions of public administration bodies in this area were not always systematic and consistent. As a result, new and old forms of organization of science not only exist in parallel but also conflict to some extent. In a number of areas of public administration, science does not have adequate human resources, information, analytical, and financial support.

In view of the foregoing, there is the necessity for forming and legal consolidation of the new state scientific policy of Ukraine, which would have a complex, cross-sectoral character, pursue specific goals, be based on the organic system of planned documents, supported by an effective mechanism of implementation, carried out within the framework of a unified social development policy.

2. Definition of the category “state policy” in the legislation of Ukraine

Speaking about state policy as a category, we must take into account the fact that although the term “state policy” is widely used in Ukrainian legislation, it does not contain a clear statutory definition of what we should understand under this category.

The analysis of Ukrainian legislation allows us to note the following:

firstly, the category of state policy is usually used in a specific context, in linking to specific needs. Thus, for example, p. 1 of Part 1 of Article 1 of the Law of Ukraine “On Principles of State Regional Policy” on 05 February 2015 includes the statutory definition of “state regional policy” (Verkhovna Rada Ukrainy, 2015);

secondly, in the legislation of Ukraine, the synonymous categories of state policy are used. For example, the Constitution of Ukraine in Part 1 of Article 116 speaks about “policy of the state” and in Part 4 of Article 138 uses the term “policy of Ukraine” (Verkhovna Rada Ukrainy, 1996);

thirdly, there is a special Law of Ukraine “On Principles of Internal and External Policy” on 01 July 2010 (Verkhovna Rada Ukrainy, 2010), which, although does not define “state policy”, outlines the main principles of the implementation of external and internal state policy of Ukraine;

fourthly, on state policy, in the context of realization of its separate directions, it is said in a rather large number of laws of Ukraine and subordinate legislation, for example, in the Law of Ukraine “On Waste” on 05 March 1998 (Verkhovna Rada Ukrainy, 1998) or in the Regulation on the Ministry of Regional Development, Construction, and Housing and

Communal Services of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine on 30 April 2014 № 197 (Verkhovna Rada Ukrainy, 2014). At the same time, these acts also do not define the category of “state policy”;

fifthly, the Ukrainian legislation regulates the main directions of the state policy of Ukraine. It is about the external and internal state policy of Ukraine. Thus, in accordance with the Law of Ukraine “On Principles of Internal and Foreign Policy” on 01 July 2010, Ukraine’s internal policy consists of: internal policy in the spheres of development of local self-government and stimulation of regional development; internal policy in the field of the formation of civil society institutions; internal policy in the field of national security and defence; internal policy in the economic sphere; internal policy in the social sphere; internal policy in the environmental sphere and the sphere of technogenic safety, etc. The principles of Ukraine’s foreign policy include: ensuring Ukraine’s integration into European political, economic, legal space with a view to gaining membership in the European Union; ensuring national interests and security of Ukraine by maintaining peaceful and mutually beneficial cooperation with members of the international community in accordance with generally recognized principles and provisions of international law; provision by diplomatic and other means and methods provided for by international law of protection of the sovereignty, territorial integrity and inviolability of Ukraine’s state borders, its political, economic, energy, and other interests; providing protection of rights and interests of citizens and legal entities of Ukraine abroad; establishment of the leading place of Ukraine in the system of international relations, strengthening of the international authority of the state, and so on (Verkhovna Rada Ukrainy, 2010).

3. A general idea of policy

Under the condition of the absence of a clear definition of the category “state policy” in the legislation of Ukraine, it is necessary to refer to the works of scientists on this issue. In our opinion, any definition of state scientific policy should not contradict the general idea of policy in its traditional sense.

So, the policy can be considered as a consequence of external influences and the distribution of power, as a set of leading ideas, as a set of institutional structures, and as a decision-making process (Tertychka, 2002). In the most abstract form, the policy represents the sphere of interaction between classes, parties, nations, peoples, states, social groups, power and population, citizens and their associations. This is the most important and complex part of social life (Matuzov, 1997).

The abstract form of understanding of policy does not determine a full-fledged approach to defining its meaning, as there are a lot of controversies around the

definition of this categorical notion. This is related to the multidimensional and multifaceted nature of this phenomenon.

This statement is confirmed by the historical fact, the essence of which is reduced to the fact that the issues of politics, state, society constantly attracted the attention of thinkers of different eras and peoples. In the history of political thought, such classical works on social philosophy as *The Republic and The Laws* by Plato, *Politics* by Aristotle, *De Re Publica and De Legibus* by Cicero, *The Prince* by Machiavelli, *Leviathan* by Hobbes, *Tractatus Politicus* by Spinoza, *The Spirit of Laws* by Montesquieu, *The Social Contract* by Rousseau, *The Metaphysical Elements of Justice* by Kant, *Foundations of Natural Right* by Fichte, *Elements of the Philosophy of Right* by Hegel, and also papers written by Locke, Weber, Jaspers, and other thinkers of the past and present are markedly distinguished. However, it should be noted that in the works of the ancient pillars of public opinion, not policy as a certain kind of state activity as much as the political world in the modern sense is investigated (Gadzhiev, 1997).

4. The issue of state policy in the national scientific literature

In the domestic scientific literature, the issue of state policy has not yet been adequately covered, but some issues of this problem, namely: the conceptual foundations of state policy, its analysis, means of implementation, etc. are set out in the works of some domestic scholars. Thus, the conceptual foundations for understanding the state policy in general can be reduced to the following formulations:

state policy – a political activity of the state and its institutions, aimed at ensuring order in society, harmonizing and subordinating various social interests, achieving social harmony, and organizing the management of social processes' development (Lohunova, Shakhov, Shevchenko, 1999);

state policy – a relatively stable, organized, and purposeful activity (inactivity) of state institutions, carried out by them directly or indirectly on a particular problem or a set of problems that affects the life of society (Rebkalo, Tertychka (red.), 2002);

state policy – a relatively stable, organized, and purposeful activity of the government in relation to a particular problem or subject of consideration, which is carried out directly or indirectly through authorized agents and affects the life of society (Romanov, Rudik, Brus, 2003).

5. Functions of state policy

In turn, state policy is reflected in its functions. It is well-known that for the modern law-bound state, the main function is to protect the interests of man,

protect his rights and freedoms, and ensure proper living conditions. Other functions of the state are more or less subordinate to its implementation. Among them, one can distinguish, firstly, the creation of democratic conditions for the definition and coordination of interests of various social groups of society; secondly, the creation of conditions for the development of production; thirdly, the promotion of education, science, and culture; fourthly, environmental protection; fifthly, protection of the constitutional system; sixthly, ensuring law and order.

In this regard, one can talk about state policy in various spheres of society. For example, about the social, cultural, scientific, economic, regulatory, environmental, legal policy of the state. Thus, state policy is reflected in the direction of regulation of social relations, which are formed in real life.

6. The essence of state scientific policy

The issue about the essence of the very state scientific policy also provokes heated discussions that reflect the divergent views of scientists and practitioners in relation to the role of the state in the scientific system. In this context, we consider it necessary to analyse modern approaches of Ukrainian scholars to the conceptual category mentioned in the title of this article, which can be reduced to understanding in narrow and broad aspects.

Thus, in the broad sense, B.A. Malytskyi defines state scientific policy as a long-term state's behaviour in matters related to science (Malytskyi (red.), (2001).

Representatives of the narrow approach (S.I. Zdioruk, H.I. Kalytych, K.M. Korzhavin) under the state scientific policy understand the totality of actions of state officials (state authorities, which they personify), aimed at solving problems arising in the process of human activities in the field of science (Zdioruk (red.), 2006; Kalytych, Korzhavin, 2008). Among the types of principles for the formation of state scientific policy, they distinguish legislative, statutory, and purely political (personal). The first two areas are often combined with each other, the latter is mainly considered in the context of the role of the individual in the state process due to the complexity of distinguishing the actions of individual political leaders in the adoption of a political decision, especially when the change of policy direction occurs contrary to the current legislative and regulatory framework of activity (Kalytych, Korzhavin, 2008).

The analysis of the above definitions indicates that state policy is often viewed from structural positions, that is, as a formation consisting of a certain set of elements. Such an approach is to a certain extent a mechanical one because these numerous connections and factors that ensure its smooth functioning are out of view. That is why, in our deep conviction, in the basis of understanding of state policy, two aspects should be distinguished – strategic and tactical.

Taking as a basis the above scientific provisions, we can determine the state policy as a strategy and tactics, which determines activities of the state in a certain area of life of society and the state. Such activities are carried out by the state systematically in order to achieve certain socially useful results. In our opinion, this very approach to the understanding of state policy allows showing its teleological nature, that is, it is aimed at achieving a certain specific goal, which should be determined by the state policy strategy in a particular field. This, however, does not exclude the possibility that there may be intermediate goals, which achievement is determined by the tactics of state policy, and achievements, which are a certain stage in the fulfilment of the general purpose of state policy in a particular field.

7. Forecasting, strategic planning, and targeted programming in the field of science

Taking into account the above, in our opinion, state scientific policy can be nominated as a strategy and tactics of state activities in the field of science, which meets national interests and international standards. At the same time, the important stages of formation and, at the same time, the key determinants of its effectiveness are forecasting, strategic planning, and targeted programming.

Forecasting in the field of science is a scientifically grounded hypothesis about the possible state of science in the future, depending on the nature of the forecast background, as well as on the terms and means of achieving the goals set. Forecasts of the state of science are developed for short-term (1-3 years) and medium-term (5 years) periods. The central executive body in the field of science is responsible for the development of predictions of the state of science. Forecasts of the state of the scientific sphere are being developed in accordance with the procedure established by the Cabinet of Ministers of Ukraine. Indicators of the predictions of the state of the scientific sphere serve as the basis for the development of state target programs on science. The state scientific policy of Ukraine is formed on the basis of reliable, scientifically grounded forecasts, the results of which coincide with its general plan as much as possible.

Strategic planning in the field of science – a key element of strategic public administration in the development of science, which helps authorities responsible for the implementation of scientific policy directions to make decisions that are coordinated with the approaches to the realization of their functions, goals, and objectives.

The main form of planning in the field of science is the development of state targeted programs aimed at solving the most important problems in the development of science.

State targeted programming in the field of science is an algorithm for developing a set of interrelated tasks and

measures aimed at solving the most important problems of science development, are carried out using the funds of the State Budget of Ukraine and agreed upon by terms of execution, the composition of performers, resource provision. State target scientific programs are developed, approved, and implemented on the basis of the Law of Ukraine “On State Target Programs” in accordance with the procedure established by the Cabinet of Ministers of Ukraine. National target science programs are developed for a period of five years. Sectoral and local target science programs are developed for a period of three to five years, taking into account the duration of the current national target programs. State target scientific programs are the main means of realization of priority directions of development of science and technology by concentrating the scientific and technical potential of the state to solve the most important natural, technical, and humanitarian problems. State target scientific programs on the priority directions of science and technology development are formed by the central executive body in the field of scientific activity on the basis of targeted projects selected on a competitive basis.

The place and role of forecasting, strategic planning, and targeted programming in implementing state policy in the field of science in Ukraine are stipulated by three factors. Firstly, the indicators of expected scientific results are the basis for substantiating simultaneously the strategic plans of the bodies implementing the policy in the field of science and budget programs, aimed at a concentration of financial resources for the implementation of this policy. They serve as a bridge for the integration of result-oriented planning. Secondly, the criteria and indicators for evaluating the results of the implementation of scientific policy are the core, on which the forecasts for the development of the situation in the field of science are based, the action plans on their implementation based on results of monitoring, comparison with the set target indicators and corresponding indicators for the countries, acting as a base of comparisons (“benchmarking” – in accordance with international practice), are formed and adjusted. Thirdly, monitoring, critical evaluation of expected scientific results, program implementation, and responsibility for failure to achieve results are prerequisites for improving the effectiveness of legal regulation.

After analysing the specified conditions for increasing the efficiency of the state scientific policy, we further emphasize the priority importance of the legal support for its implementation, since state policy as a whole, as well as its separate directions, are not realized in non-legal forms. Undoubtedly, one legal provision is not enough for the implementation of state policy, but it is a “starting point”, “rules of the game” on which the proper direction of the state policy will actually be implemented.

A characteristic feature of the practical application of a large array of legal acts in the field of science is the failure to fulfil the majority of legal enactments, which

can be partly explained by the lack of their specificity, numerous references to other legislation, which is either not yet fully developed, or amorphous, vague, or transfer solution of issues to the level of ministerial, departmental acts that have not yet been adopted. However even taking into account this kind of explanation, all this testifies to systemic signs of legal nihilism in the field of state scientific policy, which are laid through the state system of lawmaking.

8. Conclusions

It can be stated that the modernization of legal acts in the field of science should consist in harmonizing legal principles with European standards, creating normative grounds for the development of a modern national scientific system. The strategic goal of the transformation of public administration in this area should be the construction of a new model of interrelations between a scientist and a society, in which the equality between the interests of the state and the scientist will be respected.

To this end, the state should formulate its scientific policy and create such institutional forms that would increase the demand for the intellectual product. From the side of the scientist, this means taking commitments to reveal his creative potential, for which the state will create the most favourable conditions, including through the formation of an appropriate legislative space aimed at the realization of aspirations and opportunities of each scientist.

In our opinion, the drafting and adoption of the Law of Ukraine "On State Scientific Policy of Ukraine", as well as the adoption of the Laws of Ukraine "On State Support of Branch Science", "On Protection of Rights to Scientific Discovery", "On Status of Scientific Worker", "On Stimulating the Development of Innovative, Scientific, and Scientific and Technical Activities of Higher Educational Institutions of Ukraine", deserves priority attention among the problems to be solved in the legal sphere on issues of state scientific policy of Ukraine.

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