

Formation of ways of interaction of developers of projects of regulatory and legal acts in the course of legal ensuring the activities of the sector of security and state defense

Формування шляхів взаємодії розробників проєктів нормативно-правових актів в ході правового забезпечення діяльності сектору безпеки та оборони держави

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Purpose: to form ways of interaction between the executors (developers) of normative legal acts of the Sector of security and state defense and the specialists of the Secretariat of the Cabinet of Ministers in order to increase the efficiency of the performance of duties by the relevant officials during the monitoring of the procedures for accompanying draft acts submitted for consideration by the Cabinet of Ministers.

Design/Method/Approach: To achieve the goal of the research, a step-by-step instruction (algorithm) for the proper development (support) of the draft regulatory act during the interaction of the executors (developers) of regulatory acts of the Sector of security and state defense with specialists of the Secretariat of the Cabinet of Ministers, has been proposed.

Findings: the procedure for the examination of draft laws and regulations submitted to the Council discussed.

Мета роботи: підвищення ефективності виконання обов'язків відповідними службовими посадовими особами – виконавцями (розробниками) нормативно-правових актів Сектору безпеки та оборони та фахівцями Секретаріату Кабінету Міністрів в ході моніторингу процедур супроводження проєктів актів, внесених на розгляд Кабінету Міністрів України.

Дизайн/Метод: для досягнення мети дослідження запропоновано розробити покрокову інструкцію (алгоритм) для належного відпрацювання (супроводження) проєкту нормативно-правового акту в ході взаємодії виконавців (розробників) нормативно-правових актів Сектору безпеки та оборони з фахівцями Секретаріату Кабінету Міністрів.

Результати дослідження: розглянуто порядок проходження (опрацювання) проєктів нормативно-правових актів внесених на розгляд Уряду.

Теоретична цінність дослідження: за результатами дослідження отримана покрокова інструкція (алгоритм) для належного

Theoretical implications: as a result of the survey, an indication for the proper implementation of the draft legal act has been received.

Originality/Value: The value of the study lies in its practical relevance for decision-makers and responsible administrators in terms of the proper preparation and accompaniment of draft regulations submitted to the Government.

Research limitations/Future research: One of the main Limitations is the need to take into account the specifics of drafting regulations containing restricted access information.

Paper type: theoretical.

Key words: regulatory act, interaction, monitoring, legal support.

відпрацювання (супроводження) проекту нормативно-правового акту.

Цінність дослідження: Цінність дослідження полягає в його практичній значущості для керівників, відповідальних виконавців, в частині якісної підготовки та супроводження проектів нормативно-правових актів винесених на розгляд Уряду.

Обмеження дослідження: Одним з основних обмежень є необхідність врахування особливостей розроблення проектів нормативно-правових актів, що містять інформацію з обмеженим доступом.

Тип статті: теоретичний.

Ключові слова: нормативно-правовий акт, взаємодія, моніторинг, правове забезпечення.

1. Introduction

The experience of local wars and military conflicts in recent years, including the large-scale military aggression of the Russian Federation against our country, the importance of organizing and properly executing comprehensive security for the troops (forces), which includes this type of legal security, is highlighted.

Legal support means a set of measures of a legal nature, created for the purpose of participation in the implementation of state legal policy in the Ukrainian Armed Forces, development of draft laws of Ukraine, Other legal acts, drafting international treaties, partnership agreements (contracts), ensuring protection of legitimate interests of military bodies and coordination of Ukraine's armed forces activities, Ensuring the activities of the troops (forces) aimed at non-compliance, proper performance, use, application, and prevention of non-compliance with the requirements of laws and regulations, other normative documents by military service (service) personnel while performing their tasks and functional duties (Legal work in the Armed Forces of Ukraine, p. 98).

Therefore, legal support is the activity of legal services (legal advisors) and other legal professionals to provide legal (legal consultants) support for the activities of the troops (forces), including the practical implementation of international humanitarian law (law of military conflicts) and the rules of engagement (On the approval of the Instruction on the procedure for the implementation of norms of international humanitarian law in the Armed Forces of Ukraine, approved by the order of the Ministry of Defense of Ukraine).

2. Theoretical background

Analysis of the organization of legal support, including the practice of rule-making by the Sector of security and state defense (also Ministry of Defence of Ukraine (MoD)), indicates the relevance of the tasks in terms of improving the quality of coordination of joint activities of the developer of the draft regulatory act (hereinafter – the draft act) with the structural units of the Cabinet of Ministers during its submission to the consideration of the Council, which is an important stage in the adoption (approval) of the draft act.

This makes it necessary to focus on possible variants of regulatory procedures, which define the role and place (taking appropriate managerial decisions) of the commanding officers of the structural units of the Sector of security and state defense (Ukrainian Armed Forces) during the supervision of the draft acts taking into account their specificities.

3. Problem statement

The purpose of the report is to form ways of interaction between the executors (developers) of normative legal acts of the of the Sector of security and state defense (Ministry of Defense) and the specialists of the Secretariat of the Cabinet of Ministers in order to increase the efficiency of the

performance of duties by the relevant officials during the monitoring of the procedures for accompanying draft acts submitted for consideration by the Cabinet of Ministers.

4. Data and methods

We will consider the short-term implementation of the suggested measures in accordance with the developed regulations (On approval of the Regulations of the Cabinet of Ministers of Ukraine: Resolution of the Cabinet of Ministers of Ukraine; On approval of the Regulation on the Secretariat of the Cabinet of Ministers of Ukraine; On approval of the Regulation on the Ministry of Defense of Ukraine; On the approval of the Instructions for record keeping and documentation of management information in electronic form in the Ministry of Defense of Ukraine and the General Staff of the Armed Forces of Ukraine). We will offer to develop a step-by-step instruction (algorithm) for the proper development (support) of the draft regulatory act during the interaction of the executors (developers) of regulatory acts of the Sector of security and state defense with specialists of the Secretariat of the Cabinet of Ministers by the method of successive approximations.

5. Results

The authorized body of law-making prepares a draft act for the purpose of regulating social relations.

The Ministry of Defence, in accordance with its mandate, develops (hereinafter referred to as the developer) draft acts on national security in the military, defence and military construction spheres during peacetime and special periods.

Draft legislation will be submitted by the Ministry of Defense, as the developer, for consideration by the Cabinet of Ministers within the framework of the legislative initiative of the Cabinet of Ministers of Ukraine and such that require regulatory and legal implementation by acts of the President of Ukraine and the Cabinet of Ministers of Ukraine.

For submitting materials to the Cabinet of Ministers and for documenting the participation of the MoD leadership in a meeting of the Cabinet of Ministers (Government Committee), a responsible person (hereinafter referred to as the "Acting Officer") will be designated in the structural unit of the DOD (Forces), who drafts (finalizes): draft act with appendices; a statement to the DOD Executive Office and supplementary material to the draft act, and an information block regarding the draft act for the Electronic Module of the Cabinet of Ministers' Secretary.

The cover sheet, explanatory note, approval letter, and minutes of integration of positions to the draft act will be signed by the Minister of Defense of Ukraine or his/her deputy. The responsibility for the truthfulness of the information contained in the documents rests with the signatory.

The thesis of the speech has the following structural units: introductory part (discloses information about the developer of the draft act), main part (discloses the purpose, essence of the draft act, problematic issues, ways to solve them, main standards, result), expert part (discloses information on the results of compliance of the draft act with the concerned authorities and short summary of concerns and ways to address them. and impact on the state budget indicators), the concluding part (containing information about decisions of the state committees and conclusions of the Cabinet of Ministers' Secretariat). The background material contains expanded information on the act's subject matter, which may be supplemented with additional information (tables, figures, etc.).

The information block of the draft act to be uploaded to the electronic block of the Cabinet of Ministers (in tabular format) contains information on the status of the draft act: name, nature of the act, impact analysis, results of the agreement with the authorities concerned (date of the

request for agreement, date/number of the response, position).

The documents submitted to the Cabinet of Ministers are handled by the Secretariat of the Cabinet of Ministers, whose structural units, inter alia: register and process materials of the draft act, prepare the draft act for decision by the Cabinet of Ministers (the State Committee), make preparations for the meeting of the Cabinet of Ministers (the State Committee), inform the developer of protocol decisions regarding the draft act.

For the purpose of supporting draft acts submitted to the Cabinet of Ministers, a function chart of 25 procedures has been developed by the Connector depending on the functional stage of the draft act's processing. Let's look at them briefly.

The draft act, together with its appendices, prepared in compliance with the Regulations of the Cabinet of Ministers, will be reviewed by the head of the drafting body or by his/her deputy and submitted to the Cabinet of Ministers together with the supporting sheet (procedure 1).

In the next step, accordingly, if the draft act is not in compliance with the management information documentation requirements (lack of electronic digital signature, If the document does not comply with the PDF or/and RTF format, the Secretary of the Cabinet of Ministers will refuse (withdraw) its registration, stating the reasons for return to the developer to remove the document (procedure 2). If the draft act is not in compliance with the regulations of the Cabinet of Ministers (lack of necessary additions, lack of materials for negotiation procedures, lack of agreement with the authorities concerned, etc.), The Secretariat of the Cabinet of Ministers will, within two working days of receipt, return the draft to the developer for compliance with the regulatory requirements (procedure 3).

The received draft act will be processed by the Secretary of the Cabinet of Ministers within no more than 15 days, assuming that it must be examined by the Cabinet of Ministers, normally within one month of its receipt. If necessary, the time limit for processing the draft by the Secretary of the Cabinet of Ministers may be extended by one month from the date of receipt of such draft.

Acts of the Cabinet of Ministers on issues related to prevention of emergencies, elimination of their consequences and other issues, The Cabinet of Ministers is responsible for the implementation of the law on the protection of the state and the security of the population, as well as other issues related to the threat to life and/or health of the population. The drafts of the Cabinet of Ministers acts on the above matters prepared during the martial law period will be processed by the Secretary of the Cabinet of Ministers within 6 years from the moment of receipt.

During the approval process, the Cabinet Secretary usually revises (amends) the statute, amendments not altering the substance of the draft act or specific provisions) and where appropriate, amendments will be negotiated with the developer by working procedure or by submitting (Procedure 4) the draft act to the Ministry of Defence for approval (renegotiation).

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Also, the Secretary of the Cabinet of Ministers will carry out an examination of the submitted draft act, which consists of a feasibility assessment (verification of compliance with the Programme of the Cabinet of Ministers, etc.), verification of full compliance with the requests of interested authorities, assessment of the realistic achievement of the objective in a different way of solving

the problem), Legal assessment (assessment of compliance with the Constitution of Ukraine and other acts of legislation with the acts of such legal force, Assessment of compliance with the rules of drafting of the legislation acts and of the legislation drafting techniques), assessment of compliance with Ukraine's obligations in the sphere of European integration, including international legal framework, and with the law of the European Union.

The Secretary of the Cabinet of Ministers issues a statement on the results of the examination, which is sent together with the materials of the meeting of the Cabinet of Ministers (Government Committee) (procedure 5) to the developer of the system of electronic interaction of bodies of executive power (SEV OVV).

Currently, the State Secretary of the Cabinet of Ministers convenes meetings with the participation of the State Secretaries of Ministries to coordinate work on the preparation of draft acts and to improve their quality. At the meeting of the state secretaries, among other things, the proposals of the ministries for inclusion (incl. The proposals of the ministries to include (including through the electronic module of the SCMU) the relevant draft acts to the order of the present draft meeting of the Council (procedure 6), as well as the possibility for the developer to withdraw the draft act in order to finalize it for re-admission to the Cabinet of Ministers in the established order (procedure 7).

The revised draft act, together with the materials submitted by the developer and the opinion of the Secretary of the Cabinet of Ministers, will be included in the order of the day's meeting of the relevant governmental committee (procedure 8). The established procedure is posted on the official website of the Cabinet of Ministers (the Unified web portal of executive authorities) no later than 24 hours before the start of the meeting, as well as together with the materials of the meeting of the Committee of Ministers will be submitted (procedure 9) to the developer of the system of electronic interaction of the bodies of legislative power (SEV OVV).

At the meeting of the Committee, the disagreements on the drafts of the normative legal acts, in relation to which the interested bodies, the Secretary of the Cabinet of Ministers are expressed, will be regulated through the elaboration of the coordinated position. The results of the meeting of the Steering Committee will be recorded in the minutes of the meeting, which will include decisions on the draft acts. These decisions will be communicated to the developers in the form of extracts from the protocol within one working day of its signing (procedure 10). When a state of war is imposed in Ukraine or in some parts of the country by decision of the Cabinet of Ministers, the meetings of the state committees may not be held.

If, as a result of the review of the draft act at a meeting of the Cabinet of Ministers, the position of the developer is reconciled and supported, the draft will be submitted to the Cabinet of Ministers for review (procedure 11).

If, as a result of the review of the draft act at the meeting of the Steering Committee, the disagreement is resolved and the developer agrees with the objections expressed, the draft will be returned to the developer for revision (procedure 12). If no revision period is specified, the draft will be submitted to the Cabinet of Ministers no later than 10 days after its consideration by the Committee of Ministers, and will be presented to the Cabinet of Ministers' meeting for consideration after a second review by the Secretary of the Cabinet of Ministers (procedure 13).

If, following the results of the review of the draft act at the meeting of the Steering Committee, differences in the positions of the developer and interested bodies are not resolved, this draft act will be submitted for consideration at the meeting of the Cabinet of Ministers at the editorial office of the developer for adoption of a residual decision (procedure 14).

The Steering Committee may deem the adoption of an Act of the Cabinet of Ministers inadvisable. The final decision on the draft of such an act will be taken by the Cabinet of Ministers (procedure 15), unless the decision of the Committee of Ministers is opposed by the developer, who has submitted the draft with his own initiative (procedure 16).

At the decision of the Prime Minister, the draft act may be included in the order of the day's meeting of the Cabinet of Ministers without prior review by a legislative committee (procedure 17).

In urgent cases involving the imposition of a state of war in Ukraine or in some of its localities, which require an urgent decision to be taken, The Cabinet of Ministers may consider the draft act without adhering to the requirements of the Regulations for negotiation and consultation, legal expertise by the Ministry of Justice, and consideration by the Governmental Committee. This draft act will be put to a vote and, if adopted, will be approved by the Secretary of the Cabinet of Ministers without any substantive changes (amendments related to compliance with the rules of legislative drafting will be made and edited) (procedure 18).

A meeting chaired by the Prime Minister (Uryadovaya Rada) may decide to return the draft act to the developer in order to determine its relevance or validity (procedure 19).

Drafts prepared for consideration by the Cabinet of Ministers will be included, as a rule, in the "assets of legislation" or "matters containing information with limited access" of the order of the day. Also, draft legislation related to prevention of emergencies may be considered at a Cabinet of Ministers meeting, Elimination of their consequences or resolution of other issues related to the emergence of a threat to life and/or health of the population, security of state defence and the state of war.

The draft agenda of the meeting of the Cabinet of Ministers and materials approved by the Prime Minister are sent by the Secretariat of the Cabinet of Ministers to members of the Cabinet of Ministers in electronic form using the system of electronic interaction of executive authorities, except for materials containing information with limited access, no later than 24 hours before the start of the meeting (procedure 20), and in the case of holding an extraordinary meeting, he provides them before the start or during the meeting. In case of introduction of martial law in Ukraine or in some of its localities, the draft agenda of the meeting of the Cabinet of Ministers approved by the Prime Minister and materials for it may be sent by the Secretariat of the Cabinet of Ministers to subjects in paper form.

Meetings of the Cabinet of Ministers are held every Wednesday and begin at a time determined by the Prime Minister. In the case of the introduction of martial law in Ukraine or in some of its localities, meetings of the Cabinet of Ministers are held in accordance with the schedule approved by the Cabinet of Ministers.

The members of the Cabinet of Ministers are consulted at the meeting on the issues stipulated by the order of the day. During the discussion of draft legislation, a decision will be taken first and foremost on those drafts for which there is an irregular disagreement between the positions of the bodies concerned and/ or a warning from the Secretary of the Cabinet of Ministers. At the head's request, a decision on such draft acts may be taken as a whole without discussion. If, as a result of the examination of the material submitted for review, principles and suggestions for the draft act are made, they will be agreed upon during the negotiation. The drafts of the Acts for which unregulated discrepancies remain may be accepted (seized) by instructing the developer to finalize them within a specified time limit in accordance with the regulatory requirements (procedure 21).

The Secretary of the Cabinet of Ministers will take the minutes of the meeting within one day after the meeting is over. The minutes of the meeting will be circulated electronically, except for items containing restricted information (Procedure 22). When a state of war is in force in Ukraine or in particular areas of Ukraine, the minutes of the meeting may be circulated in paper form to the entities referred to in the first paragraph of this paragraph.

Adopted acts of the Cabinet of Ministers are sent by the Secretary of the Cabinet of Ministers to the central and local bodies of legislative power, the Council of Ministers of the Autonomous Republic of Crimea, other state bodies, state economic associations, enterprises, institutions and organizations within two working days of their signing (procedure 23).

The draft law approved by the Cabinet of Ministers is examined by the Prime Minister and submitted to the Verkhovna Rada (procedure 24). The draft act of the President of Ukraine, approved by the Cabinet of Ministers and signed by the Prime Minister, is submitted to the President of Ukraine (procedure 25).

6. Conclusion

Therefore, this is a variant of means of interaction between the authors (developers) of the Sector of security and state defense (Ministry of Defense) regulations and staff of the Cabinet of Ministers' Secretariat with a view to enhance efficiency of duties fulfillment by respective officials in the course of monitoring of procedures of draft legal acts support, submitted to the consideration of the Cabinet of Ministers.

The practical implementation of the abovementioned ways of interaction between the authors (developers) of the Sector of security and state defense (Ministry of Defense) regulations and the staff of the Secretariat of the Cabinet of Ministers is of practical importance and is intended for practical application in the structural units of the Sector of security and state defense (Ukrainian Armed Forces): Heads – for proper organization and responsible executives – for ensuring effective support of draft regulations submitted for consideration by the Cabinet of Ministers.

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8. Competing interests

The authors declare that they have no competing interests.

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