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SOME ASPECTS OF INFORMATION TREATMENT IN ORDER TO ENSURE PROPER PROTECTION OF CRITICAL INFRASTRUCTURE OBJECTS IN UKRAINE

Brusakova O. V., Krykun V. V.

INTRODUCTION

In Ukraine, the issue of renewing approaches to protection of critical infrastructure objects has become particularly urgent in connection with the events that took place at the end of 2013 – the beginning of 2014, stipulated by the necessity to protect vital systems crucial for the state and society. It was from this time that attempts to make a new system for protection of critical infrastructure began, which, as a result, should increase the level of livelihood of the population and protect its basic needs, strengthen the defence capability of our state and national security, and ensure its entry into the European security space.

One of the most significant conditions for proper functioning of this direction is its legal and organizational support fulfilment that is implemented in a number of directions. Proper information use, including the processes of information collection, processing, storing, searching and analysing, is one of the consequential directions of proper functioning of the mechanism of administrative and legal regulation of processes regarding protection of the critical infrastructure objects.

The issues of critical infrastructure objects' proper protection were studied by V.B. Averyanov, O.F. Bandurka, A.V., V.B. Barchuk, A.L. Derkach, K.I. Dolzhenko, S.S. Zhyla, N.L. Ilyina, Yu.L. Kalgushkin, V.Yu. Kobrynskyi, B.A. Kormych, M.B. Levytska, V.A. Lipkan, O.V. Lohinov, Yu.E. Maksymenko, M.M. Myroshnychenko, M.S. Moiseiev, V.O. Nehodchenko, A.H. Nikulina, A.V. Nosach, T.S. Perun, S.P. Ponomariov, V.B. Pchelin, O.M. Rieznik, S.M. Romanko, S.V. Senyk, V.V. Sokurenko, L.V. Strutynska-Struk, S.S. Telenyk, T.Yu. Tkachuk, Z.D. Chuyko, K.V. Yarovy, to mention but a few. At the same time, the vast majority of the conducted studies only fragmentarily touched on the issues of information management in order to ensure the appropriate protection of critical infrastructure objects.

Thus, the need to improve the efficiency of activities related to information collection, processing, storage, search and analysis, in order

to ensure the proper protection of critical infrastructure objects in Ukraine, condition the urgency of the chosen research topic.

1. Concept and essence of information treatment process during administrative and legal protection regulation of critical infrastructure objects

The importance of the issue of properly ensuring the process of information treatment during the administrative and legal regulation of critical infrastructure objects protection is primarily stipulated by the rapid development of information technologies and their implementation in almost all spheres of human activity. In this connection, the legal provision of the administrative and legal regulation of the critical infrastructure objects' protection is mainly carried out in the direction of the information processes regulation. Thus, the normative and legal provision of this area is made up of the Law of Ukraine «On Basic Principles of Cyber Security in Ukraine» dated October 5, 2017¹; Resolution of the Cabinet of Ministers of Ukraine «On Approval of General Requirements for Cyber Protection of Critical Infrastructure Objects» dated June 19, 2019 No. 518²; Resolution of the Cabinet of Ministers of Ukraine «Some Issues of Critical Information Infrastructure Objects» dated October 9, 2020 No. 943³, etc. Therefore, the proper information treatment during the administrative and legal regulation of the protection of critical infrastructure objects is possible to consider as one of the leading directions of organizational support for the functioning of the administrative and legal mechanism for the protection of critical infrastructure objects.

But before moving on to establishing the specifics of proper information treatment during the administrative and legal regulation of protection of the critical infrastructure objects, it is necessary to study the categorical and conceptual apparatus formation and define the very concept of «information treatment during the administrative and legal regulation of protection of the critical infrastructure objects».

¹ About Basic Principles of Ensuring Cyber Security in Ukraine: Law of Ukraine dated October 5, 2017 No. 2163-VIII. Information of the Verkhovna Rada of Ukraine. 2017. No. 45. P. 403

² On Approval of General Requirements for Cyber Protection of Critical Infrastructure Objects: Resolution of the Cabinet of Ministers of Ukraine dated 06/19/2019 No. 518. Official Gazette of Ukraine. 2019. No. 50. P 1697

³ Some Issues of Critical Information Infrastructure Facilities Objects: Resolution of Cabinet of Ministers of Ukraine dated October 9, 2020 No. 943. Government Courier. 2020. No. 205

The category «information» is the fundamental meaningful component of the studied definition. This category has significant historical roots; in particular, as evidenced by its etymological analysis, it was used even in the Latin language as «informatio» to denote familiarization, clarification, representation of the concept⁴. The philosophical encyclopaedic dictionary author team completely rightly emphasizes the fact that information is a concept that has been used in philosophy since ancient times and as such that has recently acquired a new, broader meaning by virtue of the cybernetics development, where it acts as one of the central categories along with concepts of communication and management. The original understanding of information as data prevailed until the middle of the twentieth century. In connection with the development of communication tools, the first attempts to measure the amount of information were made using probabilistic methods. Later, other versions of the mathematical theory of information, namely topological, combinatorial, and the like appeared which received the general name of syntactic theories. Information content (meaning) and axiological (value) aspects are studied within the semantic and pragmatic theories framework. Herewith, the development of the concept of information in modern science has led to its various worldview, especially philosophical, interpretations appearance⁵.

Semantic analysis of this category shows that in the modern Ukrainian language it is used to indicate: data about any events, someone's activity, etc.; message about something; a short article containing factual data; information in any form and manner on any medium (including correspondence, books, notes, illustrations (maps, diagrams, drawings, schemes, etc.), photographs, holograms, motion pictures, video films, microfilms, sound recordings, databases of computer systems or full or partial reproduction of their elements), explanations of persons and any other publicly announced or documented information; information processed in contact of a person with an automatic device, an automatic device with an automatic device; information, signals about the surrounding world, about the external and internal environment that are perceived by organisms; a set of chemically coded signs that are transmitted from cell to cell, from organism to organism; the property of

⁴ Philosophical Encyclopaedic Dictionary / edited by: S.S. Averyntsev, E.A. Arab-Ogly, L.F. Ilyichev and others, 2nd ed. Moscow: Soviet Encyclopedia, 1989. 815 p. – p. 222.

⁵ Philosophical Encyclopaedic Dictionary. Moscow: INFRA-M, 2012. 576 p. – p. 185–186.

material objects and processes to preserve and continue a certain state, which can be transferred from one object to another in different material and energy forms⁶.

In addition, the modern understanding of the category «information», as well as the legal basis of making, collecting, obtaining, storage, usage, dissemination, and data protection was reflected in the provisions of the Law of Ukraine «On Information» dated October 2, 1992. According to Art. 1 of the above law, information is any data and/or data that can be stored on physical media or displayed in electronic form⁷.

Scientists have not overlooked this category either. Thus, the analysis of the scientific literature and the positions of individual scholars show that it is customary to designate information as:

- public authorities' product and the main resource for them⁸;
- symbolic combinations in the form of information and/or data that are objects of public or private interest⁹;
- result, a product of human activity, focused on new information making or the information taking from other objects of the material or spiritual world in order to combine these data into a certain product and commodity necessary for society¹⁰;
- a means of adapting a person and society to the conditions of existence, a means of accumulating knowledge about the surrounding world, on the basis of which a person and society choose a line of behavior to satisfy their needs and realize their interests¹¹;

⁶ Great Interpretive Dictionary of Modern Ukrainian Language (with add., supplement. and CD) / comp. and head ed. V.T. Busel. Kyiv; Irpin: VTF «Perun», 2009. 1736 p. – p. 504.

⁷ On Information: Law of Ukraine dated October 2, 1992 № 2657-XII. Information of Verkhovna Rada of Ukraine. 1992. No. 48. P. 650.

⁸ Plishkin V.M. Internal Affairs Agencies' Management Theory: a textbook / edited by Ph.D. law Sciences Yu..F. Kravchenko. Kyiv: National Academy of Internal Affairs of Ukraine, 1999. 702 p. – p. 211.

⁹ Kharenko O.V. «Information» Concept in Legal Science and Legislation of Ukraine. Journal of the Kyiv University of Law. Gazette. 2014. No. 3. P. 119–124. – p. 122.

¹⁰ Petrov E.V. Information as a Civil and Legal Relations' Object: diss. ... Candidate of Law Sciences: 12.00.03. Kharkiv, 2003. 206 p. – p. 6.

¹¹ Tkachuk T.Yu. Legal Provision of Information Security in Conditions of Ukraine;s European Integration: diss. ... Doctor of Law. Sciences: 12.00.07. Uzhhorod, 2019. 487 p. – p. 83.

– information about the surrounding environment, processes occurring in it and that is perceived by a person or special technical means¹², etc.

In order to fully understand the essence of the definition of «information treatment», it is necessary to consider the concept of «analytics», due to the fact that analytics is an integral and particularly important structural element of this process. The word «analytics» was used in Ancient Greece as «Ἀναλυτικά», that is, the art of analysis – a part of logic that deals with the doctrine of analysis¹³. The semantics of this category indicates that the word «analytical» in the modern Ukrainian language is used to denote the following: that that contains an analysis, a detailed analysis of something; possessing ability to analyze; which serves for analysis¹⁴. It follows that the application of the category «analytical» in the case studied indicates that the researched is carried out not only by way of exchanging relevant information, but also by its generalization, processing, analysis, etc. This is exactly the meaning of analytical work that individual legal scholars see. A.V. Nosach, for example, notes that the entire array of information, obtained during the activity of the relevant agency, needs processing and analysis, which is what its information and analytical work, is aimed at¹⁵. According to V.L. Groholskyi, the analytical work of the relevant agencies is a permanent cognitive activity aimed at studying information about this agency, the forms, methods and results of its work, the environment of functioning, with the aim of evaluating the effectiveness of its activities and making management decisions¹⁶.

Consequently, as the analysis of the above positions shows, the treatment of information in order to ensure functioning of the relevant sphere of social relations includes two aspects. Firstly, it is about the fact

¹² Skibytska L.I. Manager's Work Organization: Manual. Kyiv: Center for Educational Literature, 2010. 360 p. – p. 218.

¹³ Management of National Police Agencies of Ukraine: textbook / general ed. Doctor of Law Science, Assoc. V.V. Sokurenko; O.M. Bandurka, O.I. Bezpalova, O.V. Jafarova, etc.; foreword by V.V. Sokurenko; Ministry of Internal Affairs of Ukraine, Kharkiv, National University of Internal Affairs Kharkiv: Stylina Typography, 2017. 580 p. – p. 201.

¹⁴ Great Interpretive Dictionary of Modern Ukrainian Language (with add., supplement. and CD) / comp. and head ed. V.T. Busel. Kyiv; Irpin: VTF «Perun», 2009. 1736 p. – p. 28.

¹⁵ Nosach A.V. Administrative and Legal Forms of Security Service of Ukraine Activities in Combatng Terrorism: diss. ... Candidate of Law Sciences: 12.00.07. Sumy, 2017. 222 p. – p. 135.

¹⁶ Groholskyi V.L. Management of Activities of Special Divisions of Ministry of Internal Affairs of Ukraine in Combat Organized Crime: diss. ... Doctor of Law. Sciences: 12.00.07. Kharkiv, 2004. 427 p. – p. 108.

that within the scope of such activity there is the supply, collection and exchange of information, and secondly, such information requires processing, generalization, and analysis, etc., as a result the goal of the relevant institution's functioning is achieved. At the same time, in addition to the concept of «information treatment», there is also a more widespread concept, both in science and within the legislation provisions – «information and analytical support».

Thus, for example, according to Art. 71 of the Tax Code of Ukraine dated December 2, 2010, information and analytical support for the activities of control agencies is a set of measures coordinated by the executive power central agency, which ensures the formation and implementation of state financial policy, regarding collecting, processing and use of information necessary for the performance of the functions entrusted to control agencies¹⁷. In this case, an attempt to determine the essence of information and analytical support of the relevant activity by listing some of the processes that are applied in relation to information was made. Such an approach can hardly be called successful given the fact that the list of such processes is not complete, and it cannot be exhaustive, since within the framework of implementation of information and analytical support of the relevant activity, taking into account the specific situation, a wide variety of information processing methods can be applied. Given that, we consider it expedient to use the term «information treatment» when defining the essence of information and analytical support, which will include in its content all possible options, namely, information collecting, exchange, processing, analysis, generalization, etc. of.

It should be noted that the stated legislative deficiency in defining the essence of information and analytical provision of the relevant sphere of social relations can often be observed on the pages of specialized literature and among the individual legal scholars' positions. As some of scientists specializing in administrative law sphere quite rightly noted in this regard, having made an attempt to name all the processes that might arise during the activities of information provision of state authorities, scientists focus only on the processes of collecting, obtaining, processing and analyzing information, and as a result of this, the suggested definition loses its universality and becomes too narrow. In particular, monitoring, dissemination, processing, extraction of information, databases making,

¹⁷ Tax Code of Ukraine: Law of Ukraine dated December 2, 2010 № 2755– VI. Information of Verkhovna Rada of Ukraine. 2011. No. 13–14, No. 15–16, No. 17. Art. 112.

etc., can also be included in the processes carried out within the framework of information provision¹⁸.

Thus, the following approaches to determining the essence of information and analytical support or information treatment for the purpose of support can serve as an example of such a state of affairs:

- activities ensuring information collecting, processing, storage, search and dissemination as well as the formation of organizational resources and the organization of access to them¹⁹;

- activities related to collecting, processing and analyzing information about social, political and economic processes²⁰;

- a set of actions based on concepts, methods, means and regulatory and methodological materials for collecting, accumulating, processing and analyzing data for the purpose of rationale and decision-making²¹;

- purposeful activity on the collecting, processing and analysis of information obtained in the process of the public authority activities' implementing²², etc.

Herewith, as evidenced by the analysis of the above approaches to understanding the essence of information treatment for the purpose of ensuring or informational and analytical provision of relevant social relations, all of them have one more deficiency– the lack of mention that such activities are carried out on the basis of legal regulations.

Therefore, taking into account the given material, it seems possible to state a definition of the information treatment essence for the purpose of ensuring activities related to protection of the critical infrastructure objects as a set of

¹⁸ Pchelin V.B. Essence of Information Provision of Administrative Justice of Ukraine. Scientific Bulletin of Uzhhorod National University. Series: Law. 2016. Issue 39. Vol. 2. P. 22–25. – p. 23.

¹⁹ Dodonov A.G., Lande D.V., Kozhenevsky S.R., Putyatyn V.G. Computer Information Systems and Data Storage: Explanatory Dictionary. Kyiv: Phoenix; IPRY NAS of Ukraine, 2013. 554 p. – p. 163; 461; Senyk S.V. Administrative and Legal Regulation of the National Police of Ukraine Activity in the Field of Information Circulation with Limited Access: diss. ... Doctor of Philosophy: 081. Lviv, 2020. 240 p. – p. 56.

²⁰ Valevskyi O.L. Conceptual Principles of State Policy Implementation in Conditions of Ukrainian Society Transformation: diss. ... doctor of sciences on state management: 25.00.01. Kyiv, 2010. 413 p. – p. 52.

²¹ Law of Ukraine «On National Police»: scientific and practical commentary of Ministry of Internal Affairs of Ukraine, Kharkiv. National University of Internal Affairs; ed. Doctor of Law Sciences, Assoc. V.V. Sokurenko; O.I. Bezpalova, K.Yu. Melnyk, O.O. Yukhno, etc.; foreword by V.V. Sokurenko. Kharkiv, 2016. 408 p.

²² Ostrovsky S.O. Administrative and Legal Principles of National Guard of Ukraine and Law Enforcement Agencies and Armed Forces of Ukraine Interaction: thesis. ... Candidate of Law Sciences: 12.00.07 Kyiv, 2018. 224 p. – p 142.

actions and measures that, in accordance with legal regulations, are carried out by authorized subjects during the information treatment for the purpose of ensuring proper state of security of critical infrastructure objects. Being one of the leading areas of organizational support for functioning of the administrative and legal mechanism for protection of the critical infrastructure objects, information and analytical support is also carried out in several areas, which in most cases will have a close correlation.

Thus, information interaction between the subjects of these social relations should be considered one of the leading directions of information and analytical support of activities related to protection of the critical infrastructure objects. Information interaction in scientific and legal circles is understood as a joint participation and mutual cooperation of agencies, organizations, employees, and subunits in the process of exchange with a set of knowledge, information, data and messages that are formed and reproduced in society and used by individuals, groups, organizations, classes, and various social institutions to regulate social interaction, social relations, as well as relations between people (society)²³. This direction of information and analytical support for the functioning of the administrative and legal mechanism for protection of the critical infrastructure objects should be considered in several aspects.

First of all, it is about the dissemination of information in accordance with the principle of transparency in the protection of critical infrastructure objects, the essence of which we have discussed above.

Secondly, information interaction regarding protection of the critical infrastructure objects is carried out within the scope of the activities of individual entities responsible for such protection. For example, certain aspects of functioning of such information interaction are defined in the Procedure for electronic information interaction of the Ministry of Internal Affairs of Ukraine, the Ministry of Finance of Ukraine and central executive authorities, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Internal Affairs of Ukraine and the Minister of Finance of Ukraine, approved by a joint Order of the Ministry of Internal Affairs of Ukraine and the Ministry of Finance of Ukraine dated May 13, 2020 No. 386/208²⁴.

²³ Denisjuk S.F. Public Control over Law Enforcement Activities in Ukraine: Administrative and Law Basics: dissertation. ... Doctor of Law Sciences: 12.00.07. Kyiv, 2010. 393 p. 74

²⁴ On Approval of Procedure for Electronic Information Interaction of Ministry of Internal Affairs of Ukraine, Ministry of Finance of Ukraine and Central Executive Authorities, Activities of which are directed and coordinated by Cabinet of Ministers of

Thirdly, consultations with the public are held on the most urgent issues of functioning of the administrative and legal mechanism for protection of the critical infrastructure objects. As M.V. Zavalnyi notes, the purpose of consultations with the public is the following: development and adoption of socially justified state and management decisions; taking into account the rights, interests and knowledge of all interested parties; providing opportunities for citizens to influence the content of decisions adopted by authorities; ensuring the possibility of free access to information about the state authorities' activities; ensuring publicity, openness and transparency of these agencies' activities; promotion of systemic interaction between the authorities and the public in the form of dialogue; improving the quality of preparation and decision-making on important issues of state and social life, taking into account public opinion; provision of conditions for citizens' participation in the authorities' decisions development projects²⁵. The legal basis for carrying out such consultations was established in the Procedure for holding consultations with the public on issues of formation and implementation of state policy, approved by Resolution No. 996 of the Cabinet of Ministers of Ukraine dated November 3, 2010. As it is stated in the provisions of this normative legal act, consultations with the public are carried out with the aim of involving citizens to participate in the state affairs management, providing an opportunity for their free access to information about the executive authorities' activities, as well as ensuring the publicity, openness and transparency of these agencies' activities²⁶.

Fourthly, a separate direction of public and private cooperation in the field of protection of the critical infrastructure objects, in accordance with Clause 1 Part 1 of Art. 36 of the Draft Law of Ukraine «On critical infrastructure and its protection» dated May 27, 2019 No. 10328, is the exchange of information between state agencies, local authorities, critical infrastructure operators, public organizations, associations, employers' organizations, as well as citizens regarding threats to critical infrastructure

Ukraine through Minister of Internal Affairs of Ukraine and Minister of Finance of Ukraine: Order of Ministry of Internal Affairs of Ukraine, Ministry of Finance of Ukraine of 13.05. 2020 No. 386/208. Official Gazette of Ukraine. 2020. No. 39. P. 1292.

²⁵ Zavalnyi M.V. Administrative and Legal Principles of Activity and Interaction of State and Non-state Law Enforcement Entities in Ukraine: diss. ... Doctor of Law Sciences: 12.00.07. Kharkiv, 2018. 408 p. – p. 301.

²⁶ On Ensuring Public Participation in Formation and Implementation of State Policy: Resolution of Cabinet of Ministers of Ukraine dated November 3, 2010 No. 996. Official Gazette of Ukraine. 2010. No. 84. P. 2945.

and response to crisis situations²⁷. That is, within the scope of public and private interaction in the field of protection of the critical infrastructure objects, information and analytical support of the researched sphere of social relations is also taking place.

2. Peculiarities of collecting, processing, storing, searching and analyzing information in order to ensure proper protection of critical infrastructure facilities in Ukraine

Functioning of relevant information and telecommunication systems is one of the most important directions in the process of treating information in order to ensure proper protection of the critical infrastructure objects in Ukraine. The legal basis for functioning of such systems is determined in the Law of Ukraine «On Protection of Information in Information and Telecommunication Systems» dated July 5, 1994. The analysis of Art. 1 of the abovementioned legal act shows that the information and telecommunication system is a set of: 1) information systems, that is, organizational and technical systems in which information processing technology is implemented using technical and software tools 2) telecommunication systems is a set of technical and software tools designed to exchange information by transmitting, emitting or receiving it in the form of signals, signs, sounds, moving or still images or in another way; acting as a whole in the process of information processing²⁸. In the process of protecting the critical infrastructure objects, the specified direction of information and analytical support of this sphere of social relations is most often implemented by such subjects as law enforcement agencies.

Thus, the Concept of the State Program for Information and Telecommunication Support of Law Enforcement Agencies, whose activities are related to combat crime, approved by the Order of the Cabinet of Ministers of Ukraine dated September 19, 2007 No. 754-r, it was stated that the informatization of law enforcement agencies is carried out by making and exploiting of its own information systems by each agency, which generally ensure the fulfillment of the tasks assigned to the relevant agency, in particular related to combating crime. At the same

²⁷ On Critical Infrastructure and Its Protection: Draft Law of Ukraine dated 05/27/2019 No. 10328 // Database «Legislation of Ukraine» / Verkhovna Rada of Ukraine.URL: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=65996&pf35401=485673>

²⁸ On Protection of Information in Information and Telecommunication Systems: Law of Ukraine dated 07.05.1994 No. 80/94-VR. Information of Verkhovna Rada of Ukraine. 1994. No. 31. Art. 286

time, law enforcement agencies use a significant number of information, information and telecommunication, and telecommunication systems that were made at different times, have different structures and use different software and technical platforms²⁹. A striking example of the implementation of the above direction of information and analytical support for protection of the critical infrastructure objects is the functioning of the following information and information and telecommunication systems:

- the unified information system of the Ministry of Internal Affairs, which, in accordance with the Regulation «On the Unified Information System of the Ministry of Internal Affairs», approved by Resolution No. 1024 of the Cabinet of Ministers of Ukraine dated November 14, 2018, is a multifunctional integrated automated system ensuring directly its subjects' functions implementation, information support and support of their activities and is a set of interconnected functional subsystems, software and information complexes, software and technical and technical means of telecommunications, which provide a logical combination of specified information resources, processing and protection of information, internal and external information interaction³⁰;

- the unified state information system in the field of prevention and counteraction legalization (laundering) of proceeds obtained through crime, financing of terrorism and financing of proliferation of weapons of mass destruction, which, in accordance with the Regulation «On Unified State Information System in the field of prevention and counteraction legalization (laundering) of proceeds, obtained through crime, financing terrorism and financing proliferation of weapons of mass destruction», approved by the Resolution of the Cabinet of Ministers of Ukraine dated July 22, 2020 No. 627, is an information system that, by way of combining organizational and engineering and technical measures, technical and software tools, ensures the collecting and processing of information and state electronic information resources data, necessary for the State Financial Monitoring to carry out a comprehensive analysis of information

²⁹ On Approval of Concept of State Program of Information and Telecommunications Support of Law Enforcement Agencies Whose Activities are Related to Combating Crime: Order of Cabinet of Ministers of Ukraine dated September 19, 2007 No. 754-r. Official Gazette of Ukraine. 2007. No. 71. Art. 2686.

³⁰ On Approval of Regulation on Unified Information System of Ministry of Internal Affairs and List of Its Priority Information Resources: Resolution of Cabinet of Ministers of Ukraine dated November 14, 2018 No. 1024. Official Gazette of Ukraine. 2018. No. 98. Art. 3230.

and data about financial transactions subject to financial monitoring, other information and data that may be related to legalization (launder) proceeds obtained by criminal means, or financing terrorism or financing the proliferation of weapons of mass destruction³¹;

- the information and telecommunication system «Information portal of the National Police of Ukraine», which, in accordance with the Regulation «On Information and Telecommunication System «Information Portal of National Police of Ukraine»», approved by Order of the Ministry of Internal Affairs of Ukraine dated August 3, 2017 No. 676, is a set of technical and software means intended for the processing of information generated in the process of the activities of the National Police of Ukraine and its information and analytical support³²;

- information and telecommunications system of border control «Hart-1», which in accordance with the Regulation «On Information and Telecommunications System of Border Control «Hart-1» of State Border Service of Ukraine», approved by the Order of the State Border Service of Ukraine Administration dated September 30, 2008 No. 810, is a set of organizational and administrative measures, software and technical and telecommunication means that ensure information processing (input, recording, reading, storage, destruction, reception, transmission) regarding border control of persons and vehicles crossing the state border of Ukraine, and automated access to information stored in the databases of the «Hart-1» system³³;

- the integrated interdepartmental information and telecommunications system «Arkan», which, in accordance with the Regulation «On Integrated Interdepartmental Information and Telecommunications System Regarding Control of Persons, Vehicles and Goods Crossing State Border», approved by a joint Order of the State Border Service of Ukraine Administration, the State

³¹ Some Issues of Unified State Information System in Field of Prevention and Counteraction Legalization (laundering) of Proceeds from crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction: Resolution of Cabinet of Ministers of Ukraine of 07/22/2020 No. 627. Official Gazette of Ukraine. 2020. No. 61. Art. 1976

³² On Approval of Regulations on Information and Telecommunication System «Information Portal of National Police of Ukraine»: Order of Ministry of Internal Affairs of Ukraine dated August 3, 2017 No. 676. Official Gazette of Ukraine. 2017. No. 75. Art. 2306

³³ On Approval of Regulations on Information and Telecommunications Border Control System «Hart-1» of State Border Service of Ukraine: Order of Administration of State Border Service of Ukraine dated 30.09.2008 No. 810. Official Gazette of Ukraine. 2008. No. 87. Art. 2934

Customs Service of Ukraine, State Tax Administration of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Foreign Affairs of Ukraine, Ministry of Labor and Social Policy of Ukraine, Security Service of Ukraine, Foreign Intelligence Service of Ukraine dated April 3, 2008 No. 284/287/214/150/64/175/ 266/75, is a set of organizational and administrative measures, software, technical and telecommunication means that ensure information processing (input, reception, receipt, transfer, registration, storage) regarding the control of the persons, means of transport and goods crossing the state border of Ukraine, and automated access to information resources (databases) of the subjects of the «Arkan» system³⁴.

Authorized entities provide information and analytical support for protection of the critical infrastructure objects by a number of directions within the above information, telecommunication and information and telecommunication systems functioning framework. However, the full implementation of such protection must also take place within the framework of functioning of the information and telecommunications system specially made for this purpose. Thus, the Draft Law of Ukraine «On Critical Infrastructure and Its Protection» provides that a National list of critical infrastructure objects is formed for the purposes of coordinating the actions of the subjects of the state system of critical infrastructure protection, organizing the protection of the most important infrastructure objects³⁵. Indirectly, the need to make the above information and telecommunications system for protection of the critical infrastructure objects was discussed in the National Security and Defense Council of Ukraine Decision «On Improving Measures to Ensure Protection of Critical Infrastructure Objects» dated December 29, 2016³⁶, introduced

³⁴ On Approval of Regulation on Integrated Interdepartmental Information and Telecommunications System Regarding Control of Persons, Means of Transport and Goods Crossing State Border: Order of State Border Service of Ukraine Administration, State Customs Service of Ukraine, State Tax Administration of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Foreign Affairs of Ukraine, Ministry of Labor and Social Policy of Ukraine, Security Service of Ukraine, Foreign Intelligence Service of Ukraine dated 04.03.2008 No. 676. Official Gazette of Ukraine. 2008. No. 37. Art. 1249.

³⁵ On Critical Infrastructure and Its Protection: Draft Law of Ukraine of 05/27/2019 No. 10328 // Database «Legislation of Ukraine» / Verkhovna Rada of Ukraine. URL: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=65996&pf35401=485673>

³⁶ On Improvement of Measures Ensuring Protection of Critical Infrastructure Objects: National Security and Defense Council of Ukraine Decision of 12.29.2016. Official Gazette of Ukraine. 2017. No. 2. Art. 32.

by the decision of the President of Ukraine dated January 16 No. 8/2017 of 2017³⁷. Unfortunately, we have to state that today there is still no specialized information and telecommunication system, within the limits of which the tasks of information and analytical support for protection of the critical infrastructure objects would be performed.

The thing can only be about a separate part of such objects – the objects of critical information infrastructure. Thus, in order to determine the mechanism of formation of national and sectoral lists of objects of the critical information infrastructure, the Procedure for the formation of the list of objects of the critical information infrastructure was adopted, as well as the Procedure for entering objects of critical information infrastructure into the state register of objects of critical information infrastructure, its formation and ensuring functioning, approved by Resolution No. 943 of the Cabinet of Ministers of Ukraine dated October 9, 2020. As follows from the analysis of the provisions of the above-mentioned legal act, to assess the criticality of the information infrastructure object, the operator of basic services uses the following three criteria: 1) the need of the object of the information infrastructure both for the stable and continuous functioning of the critical infrastructure object and for the provision of basic services by it; 2) a cyber-attack, cyber incident, information security incident at an information infrastructure object significantly affects the continuity and stability of the basic services provision by the critical infrastructure object; 3) in case of a breach of the continuity and stability of the provision of basic services by the object of the information infrastructure, there is no alternative object (method) for their provision. Objects of information infrastructure that meet all three criteria are determined by the operator of basic services as the objects of the critical information infrastructure. Herewith, the criticality category of the critical information infrastructure object is set according to the criticality category of the critical infrastructure object³⁸. Thus, the analysis of the above provisions shows that an important condition for the identification of a critical infrastructure object and its further inclusion into the relevant

³⁷ On National Security and Defense Council of Ukraine Decision dated December 29, 2016 «On Improving Measures Ensuring Protection of Critical Infrastructure Objects»: Decree of President of Ukraine dated January 16, 2017 No. 8/2017. Official Gazette of Ukraine. 2017. No. 8. Art. 234.

³⁸ Some Issues of Critical Information Infrastructure Objects: Cabinet of Ministers of Ukraine Resolution dated October 9, 2020 No. 943. Government Courier. 2020. No. 205.

information and telecommunication systems is establishment of the criticality level of the critical infrastructure object.

In particular, as specified in the abovementioned legal act, information on critical information infrastructure objects of I, II, III and IV categories of criticality is submitted to the sectoral list. Information on objects of critical information infrastructure of I and II categories of criticality is included in the national list. Such critical infrastructure objects are subject to entry into the state register of critical information infrastructure objects. The specified register is an information and telecommunications system, which processes and stores information about the critical information infrastructure objects of critical infrastructure of I and II categories of criticality³⁹. At the same time, there are currently no regulations on establishing the appropriate category of criticality of a critical infrastructure object. In fact, the Resolution of the Cabinet of Ministers of Ukraine mentioned above is the only legal act where this concept is used. Herewith, it contains a reference to another normative legal act – Resolution of the Cabinet of Ministers of Ukraine dated June 19, 2019 No. 518, which approved the General requirements for cyber protection of critical infrastructure objects, in which the term «category of criticality» does not appear at all, but another concept, namely «the criticality level of the critical infrastructure object» is used only once. Thus, according to p.3 of the above regulatory act, a list of information, software and hardware resources of the critical infrastructure object, the level of their criticality for the critical infrastructure object and/or functioning of the object of the critical information infrastructure must be determined at the critical infrastructure object and the possible level of consequences in case of confidentiality violation, integrity and availability of information, unavailability of services (functions) of the object of critical information infrastructure of the critical infrastructure object, violation of the functioning of the object's components⁴⁰.

It is obvious that the Resolution of the Cabinet of Ministers of Ukraine «Some Issues of Objects of Critical Information Infrastructure» dated October 19, 2020 No. 943 is premature, as it should be based on the provisions of the Law of Ukraine «On Critical Infrastructure and Its

³⁹ Some Issues of Critical Information Infrastructure Objects: Resolution of Cabinet of Ministers of Ukraine dated October 9, 2020 No. 943. Government Courier. 2020. No. 205

⁴⁰ On Approval of General Requirements For Cyber Protection of Critical Infrastructure Objects: Resolution of Cabinet of Ministers of Ukraine of 06.19.2019 No. 518. Official Gazette of Ukraine. 2019. No. 50. Art. 1697

Protection», which currently has the status of a draft law⁴¹. The provisions of this draft law contain a description of the categorization of critical infrastructure objects with the establishment of the appropriate category of criticality of such objects (Article 10), as well as the principles of compiling and maintaining their National List (Article 11). Attention in this context should be paid to another aspect of information and analytical support for the protection of critical infrastructure objects, namely, the introduction of passporting of such objects. This direction is provided for by Art. 12 of the draft law, which states that in order to conduct an analysis of possible main threats and potential negative consequences for critical infrastructure objects, prevention of the occurrence of such threats to critical infrastructure, operators of critical infrastructure objects prepare and submit a security passport for each critical infrastructure object for approval to the subjects of critical infrastructure, responsible for the sectors protection, the Security Service of Ukraine and the subject entrusted with the physical protection provision. The security passport for a critical infrastructure object contains procedures for identifying the object and measures for its protection and security, as well as determines a list of responsible persons whose tasks include communication and information exchange with subjects of the state system of critical infrastructure protection⁴².

Fragmentary references to the passporting of critical infrastructure objects are also contained in the abovementioned Resolution of the Cabinet of Ministers of Ukraine, which, in particular, states that within 10 working days after the entry of a critical information infrastructure object into the sectoral list, the authorized body shall notify the operator of basic services about this for the operator to enter information about the object of critical information infrastructure into the passport of the object of critical infrastructure. Currently, the passporting of certain critical infrastructure objects is provided for by the Regulation «On Passporting of Potentially Dangerous Objects», which was approved by the Order of the Ministry of Emergency Situations and Protection of the Population from the Effects of the Chernobyl Disaster dated December 18, 2000

⁴¹ On Critical Infrastructure and Its Protection: Draft Law of Ukraine of 05/27/2019 No. 10328 // Database «Legislation of Ukraine» / Verkhovna Rada of Ukraine.URL: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=65996&pf35401=485673>

⁴² On Critical Infrastructure and Its Protection: Draft Law of Ukraine of 05/27/2019 No. 10328 // Database «Legislation of Ukraine» / Verkhovna Rada of Ukraine.URL: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=65996&pf35401=485673>

No. 338. Analysis of the above normative legal act indicates that the certification of potentially dangerous objects is carried out in accordance with the lists of potentially dangerous objects approved by the commissions on technogenic and environmental safety and emergency situations that are compiled on the basis of the results of identification of the potentially dangerous objects. The identification of potentially dangerous objects consists in identifying the sources and factors of danger at the objects of economic activity, which are able to initiate the emergence of an emergency situation under negative circumstances (accident, natural disaster, etc.), as well as in the assessment of the maximum level of possible emergency situations. All objects of economic activity that are located on the territory of Ukraine and are in the state, collective or private ownership of legal entities or individuals, as well as other objects determined by the commissions on technogenic and environmental safety and emergency situations or by the relevant central and by local executive authorities are the objects to identification⁴³. At the same time, as follows from the analysis of the above legal act, passporting issues concern only part of the critical infrastructure objects.

Thus, as follows from the analysis of the above provisions, the information and analytical support of activities related to the protection of critical infrastructure objects is an extremely important direction of organizational support for the functioning of the investigated administrative and legal mechanism, which, unfortunately, is not given sufficient attention by the legislator. Today, information and analytical support for the protection of critical infrastructure objects is carried out in several interrelated directions: information interaction between subjects of protection of critical infrastructure objects; dissemination of information in accordance with the principle of openness; exchange of information between individual subjects of protection of critical infrastructure objects; consultation with the public; exchange of information within the framework of public and private cooperation in the field of protection of critical infrastructure objects; functioning of information, telecommunication and information and telecommunication systems⁴⁴. In order to improve functioning of the administrative and legal mechanism

⁴³ On Approval of Regulation on Passporting of Potentially Dangerous Objects: Order of Ministry of Emergency Situations and Civil Protection of Population from Consequences of Chornobyl Disaster dated 12/18/2000 No. 338. Official Gazette of Ukraine. 2001. No. 4. Art. 164.

⁴⁴ Krykun V.V. Informational and Analytical Support for Protection of Critical Infrastructure Objects in Ukraine. Law and Legislation. 2020. No. 1. P. 203–207.

for protection of critical infrastructure objects, it is necessary to fully introduce information and analytical support for the protection of critical infrastructure objects in the direction of creating a specialized information and telecommunication system for the protection of critical infrastructure objects, as well as the passporting of such objects.

CONCLUSIONS

According to the results of our own research, it was established that in the process of treating information during the administrative and legal regulation of the protection of critical infrastructure objects, the following directions are established: 1) information interaction between the subjects of protection of critical infrastructure objects; 2) dissemination of information taking into account the need to comply with the requirements of the principles of transparency and confidentiality; 3) exchange of information between individual subjects of critical infrastructure objects protection; 4) consultation with the public; 5) exchange of information within the framework of public and private interaction; 6) functioning of information, telecommunication and information and telecommunication systems.

But during the information treating with the aim of ensuring the proper protection of critical infrastructure objects in Ukraine, there are currently a number of problematic issues, namely: the lack of established interaction between the subjects of such protection; passporting of only a part of critical infrastructure objects; difficulties with balanced observance of the principles of publicity and confidentiality of the protection of critical infrastructure during the dissemination of information about the content of such protection; lack of a single mechanism for establishing the criticality category of a critical infrastructure object with its subsequent identification.

In order to solve the abovementioned problematic issues and improve the process of treating information during the administrative and legal settlement of protection of critical infrastructure objects in Ukraine, we suggest the creation of a specialized information and telecommunications system for protection of critical infrastructure objects and clarification of competence of individual law enforcement agencies, which should become the main users the specified system, as well as the passporting mechanism implementation for all such objects without exception. In addition, we believe that a necessary condition for the identification of a critical infrastructure object and its further inclusion in the relevant information and telecommunication systems is the establishment of the criticality level of the critical infrastructure object, the need to develop a

step-by-step algorithm for the passporting of all critical infrastructure objects without excluding them is substantiated.

ANNOTATION

The key directions of the information treatment process during the administrative and legal regulation of protection of the critical infrastructure objects are distinguished. The analysis of the indicated directions allowed to determine problematic issues related to the information treatment during the administrative and legal regulation of the of critical infrastructure objects protection: lack of established interaction of the subjects of such provision; passporting of only a part of critical infrastructure objects; difficulties with balanced observance of the principles of publicity and confidentiality of protection of the critical infrastructure objects during the dissemination of information about the content of such protection; lack of a single mechanism for establishing the criticality category of a critical infrastructure object with its subsequent identification. In this regard, the expediency of creating a specialized information and telecommunications system for the protection of critical infrastructure objects, as well as the implementation of a passporting mechanism for all such objects without exception, is argued.

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