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LEGAL DISPUTES AND GAPS IN THE CONTEXT OF SPACE AND SECURITY LEGISLATION OF UKRAINE

Abstract : *The article examines current gaps and inconsistencies in Ukrainian space and security law. The concept for the research was envisaged following the submission of the Draught Law on Amendments to the Law of Ukraine «On National Security of Ukraine» and the Law of Ukraine «On Space Activities» (No. 7485 dated June 23, 2022). Research and legal analysis are conducted within the framework of the specified draught law, taking into consideration the legal regulation experience of developed countries in the space field, namely the United States and the United Kingdom. The article provides a detailed analysis of the legal provisions of the draught law and identifies its main gaps in the context of contradictions with the basic Law of Ukraine «On Space Activity,» as well as its adverse impact on the future development of space activities in Ukraine.*

Keywords : *State Space Agency of Ukraine, National Security of Ukraine, NASA, UK Space Agency, space activity, decentralization.*

Introduction. Unfortunately, space activity in Ukraine has not evolved into an effective tool for attaining the country's geopolitical

objectives, and prompt provision of independent geospatial data, navigational information, and satellite communication is not guaranteed. The imperfect regulatory and legal framework of space activity, state and military management bodies regarding its organisation and implementation, departmental dispersion of forces and resources, insufficient level of interaction, and lack of interdepartmental coordination make it impossible to increase the effectiveness of tasks in the field of national security and defence of Ukraine by using space technology. The problem is exacerbated by the protracted nature of the Russian hybrid war against our country, a significant factor of which is the space component [1]. In this regard, the analysis of contemporary trends in the development of space activities in Ukraine's security sector is an imperative purpose.

In June 2022, the People's Deputies of Ukraine submitted for consideration the Draught Law on Amendments to the Law of Ukraine «On National Security of Ukraine» and the Law of Ukraine «On Space Activities» (No. 7485 dated June 23, 2022)¹. The purpose of the draught law, as stated in the Explanatory Note² was to improve the legislation on national security and defense of Ukraine, standardize the structure and composition of the security and defense sector, and management system, improve the state system of strategic planning and effective use of space activities in the interests of national security, and ensure the use of space technologies and the results of space activities under martial law due to full-scale Russian aggression. To achieve the specified goal, the draught law proposes to introduce amendments to the law of Ukraine «On national security of Ukraine»³ and «On space activity»⁴ because of which the State Space Agency of Ukraine will be provided with new powers and included in the security and defence sectors. Therefore, it is necessary to research and

¹ Draught Law on Amendments to the Law of Ukraine «On National Security of Ukraine» and the Law of Ukraine «On Space Activities», No. 7485 dated 23.06.2022. URL: <https://itd.rada.gov.ua/billInfo/Bills/Card/39856>

² EXPLANATORY NOTE to the draft Law of Ukraine on amendments to the Law of Ukraine «On National Security of Ukraine» and the Law of Ukraine «On Space Activities». Explanatory note (23.06.2022). URL: <https://itd.rada.gov.ua/billInfo/Bills/pubFile/1379133>

³ See: <https://zakon.rada.gov.ua/laws/show/2469-19#Text>

⁴ See: <https://zakon.rada.gov.ua/laws/show/502/96-%D0%B2%D1%80>

analyze the outlined draught law with an indication of gaps and negative consequences for the further development of space activities in Ukraine.

Methods. General scientific and special research methods were used in writing the research paper. The general scientific methods include the methods of empirical research (observation and comparison); the methods of theoretical research (the ascent from the abstract to the concrete); and the general scientific methods (methods of analysis and synthesis). The methods of theoretical research are related to a deep analysis of the facts, clarification of the essence of the investigated phenomena, and an explanation of reality. On the basis of empirical information at the theoretical level, there is an analysis of the studied objects, namely: space security, the interaction of the dimensions of national security and the dimensions of space security, the identification of the importance of space security in the context of human rights; the importance of observing people-oriented principles in the context of space activities; as well as public administration in the field of space activity and national security of Ukraine. Hypotheses and assumptions are also important theoretical research methods that were used. These methods consist of creating a system of deductively connected hypotheses. The formation of hypotheses and assumptions is carried out through the application of historical-logical and comparative methods.

Discussion. The Ukrainian State Space Agency (SSA) is intended to be incorporated into the security and defense sectors. People's deputies of Ukraine, namely Maryana Bezugloi, Halyna Tretyakova, Gennady Vatsak, Hanna Lichman, and Anatoliy Ostap, drafted a law amending the Law «On National Security of Ukraine» and the Law of Ukraine «On Space Activities» (No. 7485)¹. As noted by one of the authors of the draft law, Maryana Bezugla, the State Space Agency (SSA) provides the country's defence with operational satellite data and analytical information based on the results of their processing, such as navigation data, geophysical monitoring system information, and data on intelligence satellite flights over Ukraine. SSA also coordinated the collecting and processing of data from over 200 radar and optical satellites. Thousands of thematic maps were prepared

¹ See: <https://itd.rada.gov.ua/billInfo/Bills/Card/39856>

during the period of hostilities with the exact coordinates of enemy targets and objects for their fire damage, and thematic maps regarding the ecological state of certain objects and territories damaged as a result of hostilities. The SSA also conducts optical observation, calculation, and information provision about the flights of intelligence satellites of the Russian Federation, the Republic of Belarus, Kazakhstan, and others over the territory of Ukraine, as well as the SSA's activities, as a full-fledged component of the security and defence sector, will be simpler and more effective after the adoption of the draught law [10].

In accordance with the explanatory note to the draught law¹ the purpose of amending the Law of Ukraine «On National Security of Ukraine» and the Law of Ukraine «On Space Activities» consists in implementing a comprehensive improvement of legislation on national security and defence of Ukraine, normalisation of the structure and composition of the security and defence sector, the management system, coordination, and interaction of its bodies, improvement of the state system strategic planning and effective use of scientific and technical the potential of Ukraine, the opportunities provided by space activity in the interests national security, ensuring the use of space technologies and results of space activities for the realisation of long-term interests state in the field of national security and defence, especially in military conditions state due to the full-scale aggression of the Russian Federation against Ukraine [7]. The authors of the draught law explain the importance and necessity of implementing such amendments by pointing out that the world's leading countries have their own military space forces and civilian space structures and actively use the results of space activities in the interests of the security and defence sectors. The National Centre for Control and Testing of Space Vehicles operates in the sphere of management in the SSA of Ukraine for the testing of space vehicles and performs a wide range of activities and tasks in the interests of the national security and defence of Ukraine, including conditions of martial law. According to Clause 10 of Article 6 of the Law of Ukraine, «On

¹ See: <https://itd.rada.gov.ua/billInfo/Bills/pubFile/1379133>

Military Duty and Military Service»¹, servicemen of the Armed Forces of Ukraine, and other Military formations may be seconded to state bodies, enterprises, institutions, and organisations, as well as state and communal institutions, for the performance of tasks in the interests of the defense of the state and its security while being on military service [11]. The National Centre for Control and Testing of Space Vehicles is in cooperation with the Armed Forces of Ukraine and other components of the sector, which has been established for security and defence on issues of providing operational satellite data and analytical information based on the results of their processing. For other components of the security and defence sector of Ukraine, SSA provides information per joint orders, cooperation agreements, and official requests, including martial law conditions in Ukraine ².

As noted by the authors of the draft law, under martial law due to full-scale Russian aggression against Ukraine, the SSA provides security forces with operational satellite data and analytical information for the results of their processing, navigation data, system information geophysical monitoring, and data on reconnaissance flights over Ukraine satellites. According to consumer reviews, the information provided to the SSA is very important for planning on defeating the enemy. At the same time, there are components of the security and defence sectors that practically do not have the forces and means to operate space systems. The deployment of such capabilities and the training of specialists are necessary financial resources and a long period of time. The authors of the draught law believe that under such

¹ Law of Ukraine On Military Duty and Military Service, Law of Ukraine dated March 25, 1992 No. 2232-XII. URL: <https://zakon.rada.gov.ua/laws/show/2232-12#Text> Servicemen of the Armed Forces of Ukraine and other military formations may be seconded to state bodies, enterprises, institutions, and organisations, as well as state and communal educational institutions, to perform tasks in the interest of the defense of the state and its security while remaining in military service. The list of positions filled by military personnel in such state bodies, enterprises, institutions, organizations, as well as state and communal educational institutions, is approved by the President of Ukraine.

² EXPLANATORY NOTE to the draft Law of Ukraine on amendments to the Law of Ukraine «On National Security of Ukraine» and the Law of Ukraine «On Space Activities». Explanatory note (23.06.2022). URL: <https://itd.rada.gov.ua/billInfo/Bills/pubFile/1379133>

conditions, the introduction of the latest space technologies by the Space Agency in the interests of all components of the security and defence sectors with the direct participation of military personnel and specialists will be faster and more systematic. This will contribute to the optimization of the processes of development, creation, launch, and operation of national military and dual-purpose space systems to ensure the real needs of the state, in the field of security and defence [7]. It is important to emphasize that because of such actions, the SSA becomes a basic element of the military-space component of Ukraine's security and defence sector.

This highly contentious issue will be investigated in more detail. When analysing the Explanatory Note¹, we should emphasize the inaccuracies identified by the delegates, specifically in paragraphs 5 (Financial and economic justification) and 6 (Position of interested parties). According to paragraph 5 of the Explanatory Note, the implementation of such a draught law does not require financing from the state or local budgets. However, the implementation of the above provisions may require an increase in state budget expenditures for the implementation of additional functions by the relevant central body of the executive power. The Budget Committee of the Verkhovna Rada of Ukraine at the meeting of October 18, 2022 (report No. 142)² after consideration of the draught Law of Ukraine on Amendments to the Law of Ukraine «On the National Security of Ukraine» and the Law of Ukraine «On space activity» (No. 7485, dated 23.06.2022) reported that the implementation of the draught law may require an increase in state budget expenditures, explaining this by the fact that Article 35 of the Law of Ukraine «On the National Security of Ukraine» defines that the financing of the components of the security and defence sector is carried out at the expense and within the limits of the funds specified in the Law of Ukraine on the State Budget of Ukraine for the relevant year, and also from other sources not prohibited by law, and the number of expenditures for financing the security and defence sector must be at least 5 percent of the planned volume of the gross domestic

¹ See: <https://itd.rada.gov.ua/billInfo/Bills/pubFile/1379133>

² The Budget Committee of the Verkhovna Rada of Ukraine at the meeting of October 18, 2022 (report No. 142) URL: <https://itd.rada.gov.ua/billInfo/Bills/pubFile/1512195>

product, of which at least 3 percent is for financing the defence forces. Therefore, the authors of the draught law's assertion that there is no need to increase funding is inaccurate.

Paragraph 6 of the Explanatory Note states that the project is subject to approval only with the Ministry of Strategic Industries, the Ministry of Economy of Ukraine, the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine, the Ministry of Digital Transformation of Ukraine, and the Ministry of Defence of Ukraine. According to the authors of the draught, such implementation of the act will not have an impact on the interests of individual strata (groups) of the population, united by common interests, or business entities; the project does not concern the functioning of local self-government, the rights, and interests of territorial communities, or local and regional development; and the project does not require consultations with the public. This statement is incorrect, because of increasing human rights protection in space activities. Space activity may have an impact on the realization of human rights, including the right to access space and the information obtained there, the right to benefit from scientific progress and its applications [15], the right to privacy [12], the rights relating to life and the environment in the context of ecocide [4], the rights relating to humanitarian law, and military conflict. In particular, the militarization and weaponization of space raise concerns for specific rights, such as the right to life, the right to a safe environment, the right to development, and the right to peace, among others [9].

Therefore, the legal position of the authors of the draught law, that «implementation of the act will not affect the interests of individual (groups) populations united by common interests, or business entities» does not concern the functioning of local self-government, rights, and interests of territorial communities, and local and regional development; does not require consultation with the public»¹, is incorrect, and does not correspond to the modern people-oriented principles in the field of space activity. This is especially important in the context of the issue of European integration and ensuring the principle of equality of rights to carry out space activities (Space4All)².

¹ See: <https://itd.rada.gov.ua/billInfo/Bills/pubFile/1379133>

² See: <https://www.unoosa.org/oosa/en/ourwork/access2space4all/index.html>

The draught recommends classifying SSA as part of the security and defence sector, which cannot be agreed upon (amendments to Part 2 of Article 12, new Article 23–1 of the Law of Ukraine «On National Security of Ukraine», changes to Article 26 «On Space Activities»). The authors of the draught law explain this necessity by the desire to implement «ensuring the use of space technologies and the results of space activities for the realisation of the long-term interests of the state in the field of national security and defence», without realising that such actions lead to a change in the order of coordination. The same conclusion was reached by the Main Scientific and Expert Department of the Verkhovna Rada of Ukraine in its Scientific Opinion in the first reading, namely: «Currently, the SSA is the central body of the executive power, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Strategic Industries and which implements the state policy in the field of space activities (see clause 1 of the Regulation on SSA, approved by the Resolution of the Cabinet of Ministers of Ukraine dated May 14, 2015, No. 281 (as amended by the Resolution of the Cabinet of Ministers of Ukraine dated July 20, No. 748) [2]. In the draught law, the coordination of SSA activities will be carried out by the National Security and Defence Council as a constitutional coordinating body for national security and defence under the President of Ukraine, i.e., in fact, the President of Ukraine (Article 107 of the Constitution of Ukraine, Articles 13, 14 of the Law «On National Security of Ukraine»), which may limit the possibilities of international cooperation in the field of peaceful space exploration. In this respect, it is useful to compare the experiences of European countries and the United States. So, for instance, NASA (National Aeronautics and Space Administration) is America's civil space program and the global leader in space exploration. The agency has a diverse workforce of just under 18,000 civil servants and works with many more U. S. contractors, academia, and international and commercial partners to explore, discover, and expand knowledge for the benefit of humanity¹. The United States Space Force is a separate and distinct branch of the armed services, organized under the Department of the Air Force in a manner very similar to how the

¹ About NASA, official website, URL: <https://www.nasa.gov/about/index.html>

Marine Corps is organized under the Department of the Navy¹. The United States Space Force Headquarters and Office of the CSO, like the Army, Navy, Marine Corps, and Air Force, are located at the Pentagon. This staff will focus on building a fully functional headquarters, ready to execute the full breadth of its organise, train, and equip tasks, and producing a thorough plan to transfer forces into the US Space Force in collaboration with the US Air Force. To drastically decrease costs and prevent duplication, the United States Space Force, as a new military branch, will rely on the Department of the Air Force for more than 75 percent of its supporting operations. The Air Force Department will provide support functions such as logistics, base operating support, IT support, and audit agencies².

The United Kingdom Space Agency (UKSA)³ is an executive agency of the United Kingdom's Government in charge of the country's civil space programs, which was founded to replace the British National Space Centre (BNSC) and took over responsibility for government policy and critical budgets for space exploration. The UK Space Agency delivers key elements of the government's National Space Strategy, which sets out the government's ambitions for the UK in space, bringing together civil and defence policy for the first time.⁴ In accordance with the United Kingdom Space Agency (Transfer of Property etc.) Order 2011 from 1st April 2010, the United Kingdom Space Agency has been operating as a shadow executive agency of the Department for Business, Innovation, and Skills. Since 1st April 2011, the UK Space Agency operates as a full executive agency of the Department for Business, Innovation, and Skills. In this regard, the Secretary of State for Business, Innovation, and Skills has issued directions, by virtue of section 3(6) of the Science and

¹ About the United States Space Force, OfficialUnitedStatesAirForceWebsite, URL:<https://www.spaceforce.mil/About-Us/About-Space-Force/>

² See: OfficialUnitedStatesAirForceWebsite, URL:<https://www.spaceforce.mil/About-Us/About-Space-Force/>

³ The United Kingdom Space Agency (UKSA), official website: <https://www.gov.uk/government/organisations/uk-space-agency>

⁴ National Space Strategy, official website: <https://www.gov.uk/government/publications/national-space-strategy>

Technology Act 1965, to the Natural Environment Research Council (NERC), the Science and Technologies Facilities Council (STFC), and the Technology Strategy Board (TSB). These directions require NERC, STFC, and TSB to transfer certain responsibilities for activities relating to scientific research in outer space to the Department for Business, Innovation, and Skills acting through the UK Space Agency [14].

The UK Space Agency delivers key elements of the government's National Space Strategy. Through a programme the UKSA catalyse investment by supporting projects that drive investment and generate contracts for the UK space sector; delivers missions and capabilities that meet public needs and advance our understanding of the Universe, and champions the power of space to inspire people and offer greener, smarter solutions for business, and to support a sustainable future. The activity of UKSA includes the following programmes : the UK Launch program,¹ which helps to grow the UK space sector's small satellite and sub-orbital flight markets. Innovation programmes, such as the National Space Innovation Programme (NSIP)² which co-funds the development of high-risk projects that have a clear target market and the potential for high returns; Enabling Technologies Programme³, which provides opportunities to the UK space industry for emerging and innovative space technology research and development; General Support Technology Programme⁴ that aims to design, make and fly new space technologies; Navigation Innovation Support Programme

¹ Launch the UK: <https://www.gov.uk/guidance/how-we-are-promoting-and-regulating-spaceflight-from-the-uk>

² NSIP is the UK Space Agency's dedicated programme that provides co-funding to support the development of innovative projects, URL: <https://www.gov.uk/government/publications/national-space-innovation-programme-nsip>

³ The Enabling Technologies Programme is a UK Space Agency funding programme to research and develop new and emerging space technologies, bringing step-change in ease in Technology Readiness Levels (TRLs) and building strong foundations to underpin the UK's global leadership in space technology. URL: <https://www.gov.uk/government/publications/enabling-technologies-programme/details-about-the-enabling-technologies-programme>

⁴ The General Support Technology Programme (GSTP) is an ESA programme aimed at the development of new and innovative space technologies. URL: <https://www.gov.uk/government/publications/general-support-technology-programme-gstp>

(NavISP)¹ which supports UK organizations to undertake positioning, navigation and timing technology research. Discovery programs include the Space Science Programme,² which funds the design, development, and operation of scientific payloads and data processing facilities for space missions; the Space Exploration Programme,³ which funds the preparation of experiments that use microgravity and other space environment research platforms. There are also other programs such as Earth Observation,⁴ where data from space missions help the UK to understand and monitor how our planet is changing and support environmental management and aid projects; ESA Technology Harmonisation,⁵ which champions the UK space sector, identifies collaboration opportunities and gets activities and capabilities recognized Europe-wide; Space-Based Positioning, Navigation and Timing Programme,⁶ which explores innovative ways of delivering vital satellite navigation and timing services to the UK from space; Advanced Research in Telecommunications Systems (ARTES) Programme,⁷ supports UK industry to develop the next generation of telecommunications products, services, and applications. Also interesting is the fact that UKSA, even within its historical development, was constantly involved in international programs, and its structure included a sufficiently loose structure, with the aim that the UK's space programs never came under the auspices of one

¹ NavigationInnovationSupportProgrammeistheEuropeanSpaceAgency (ESA) researchanddevelopmentprogrammeforspacepositioning, navigationandtimingproducts andservices. URL:<https://www.gov.uk/government/collections/navisp-navigation-innovation-support-programme>

² SpaceScienceProgramme; URL: <https://www.gov.uk/government/collections/space-science-programme>

³ SpaceExplorationProgramme;URL: <https://www.gov.uk/government/collections/space-exploration-programme>

⁴ EarthObservation, URL: <https://www.gov.uk/government/collections/earth-observation-eo>

⁵ ESA TechnologyHarmonisation, URL: <https://www.gov.uk/government/collections/esa-technology-harmonisation>

⁶ Space-Based Positioning, Navigation and Timing Programme<https://www.gov.uk/guidance/space-based-pnt-programme>

⁷ AdvancedResearchinTelecommunicationsSystems (ARTES) Programme<https://www.gov.uk/government/publications/the-artes-advanced-research-in-telecommunications-systems-programme>

government department or ministry with a single vote or budget of its own [6].

In accordance with the UK Space Agency Corporate Plan 2022–25 in the framework of Space Safety and Sustainability over the next three years, UKSA's Space Safety and Sustainability programmes will continue to operate Space Surveillance and Tracking service, to warn of possible collisions between satellites and debris, the re-entry of debris into Earth's atmosphere, and events that could cause debris; work with the Ministry of Defence to deliver a new civil and defense National Space Operations Centre, to strengthen our capability to track space objects and provide information to industry; develop the Vigil mission, working with ESA to build and launch a new spacecraft that will monitor potentially harmful space weather [13].

Therefore, in the case of the implementation of the draught law «On National Security of Ukraine» and the Law of Ukraine «On Space Activities» (No. 7485) the coordination of the activities of the SSA of Ukraine will be carried out by the National Security and Defence Council as a constitutional coordinating body on national security and defense under the President of Ukraine, i. e., in fact, the President of Ukraine (Article 107 of the Constitution of Ukraine, Articles 13, 14, and 15 of the Law «On National Security of Ukraine»). In light of the above analysis of UKSA and NASA activities, it is significant to emphasize that such amendments to Ukraine's space and security legislation will limit the opportunities for international cooperation in the field of peaceful space exploration and could negatively impact the country's future space activity development. Indeed, defence and security are becoming increasingly important, for example, the UK Ministry of Defence's space strategy aims to develop national satellite intelligence, surveillance, and reconnaissance to complement its access to US imagery, for which additional funding is provided [13]. Using the UKSA example, we can see that the Defence Space Strategy directly supports the integrated National Space Strategy¹. According to this document, defence is understood as a global actor in the space domain, and it outlines how the Ministry of Defence can

¹ See: NationalSpaceStrategy, dated September 2021, URL: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034313/national-space-strategy.pdf

provide protection and security through space, emphasizing key capabilities, operations, and collaborations. Supporting all four aims becomes critical: strengthening security and defence at home and abroad; resilience development; strategic advantage owing to science and technology; and the building of the future global framework¹. Such examples are successful, and we can observe the effectiveness of the implementation of the principles of decentralization. Evtan Tepper in his research wrote that decentralized governance has numerous advantages: the first and foremost is the feasibility of achieving governance under anarchy. It enables incremental evolution of governance by introducing partial regimes – partial in terms of the issues they cover and the parties to the formation of the regimes. Over time and in the aggregate, they cover larger swaths of space governance and actors. Decentralized governance is flexible and adaptable, especially when rapid technological developments are concerned. Significantly, decentralized governance and polycentric governance enable meaningful participation of stakeholders and experts in governance, which, as empirical studies have demonstrated, results in rules that better match the circumstances and conditions of what they apply to and greater adherence to those rules [18]. This option is the most suitable for Ukraine during the war. The implementation of new changes in accordance with Draught Law No. 7485 proposed by the authors: Maryana Bezugloi, Halyna Tretyakova, Gennady Vatsak, Hanna Lichman, and Anatoliy Ostap is completely inappropriate today, as it violates modern European principles, does not correspond to the established procedures of developed countries in the aspect of space activity, and is also illogical and contradictory within the framework of domestic Ukrainian legislation. For example, the implementation of the new Art. 23–1 «State Space Agency of Ukraine» of the Law of Ukraine «On the National Security of Ukraine» is contradictory to the Law of Ukraine «On Space Activities», which is basic in the field of space activities. For instance, according to Art. 6 of the Law of Ukraine «On Space Activities» the Ministry of Strategic Industry,

¹ UK Ministry of Defence, The Orbital Ambitions of the UK Defense Space Strategy, Feb. 2022, URL: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1051456/20220120-UK_Defence_Space_Strategy_Feb_22.pdf

within its competence, takes measures to promptly identify sources of danger, contributes within the limits of its powers to the achievement of the appropriate level of reliability and efficiency of state management systems in a special period; ensures the creation and operation of the ground and space segments of satellite communication systems, broadcasting and remote sensing of the Earth, control, and analysis of the space situation, coordinate-time and navigation support; monitors compliance with the requirements of Ukraine's international treaties on the restriction and prohibition of nuclear weapons tests, nuclear weapons tests at foreign test sites, and nuclear explosions for peaceful purposes; provides effective use of scientific, technical, and production potential and institutions that belong to the sphere of its management, and create conditions for implementation space technologies in the production of competitive products for needs of domestic and foreign markets. The same conclusion was reached by the Main Scientific and Expert Administration of Verkhovna Rada of Ukraine in their conclusion [3]. Therefore, the implementation of this draft law does not aim at any improvements, except to change the concepts and stop the likely development of space activities with the strengthening of vertical regulation, instead of the implementation of today's important decentralization.

Conclusions. The main gaps in the context of inconsistency with the main Law of Ukraine «On Space Activities» were established as a result of the research and legal analysis of the draught law on Amendments to the Law of Ukraine «On National Security of Ukraine» and the Law of Ukraine «On Space Activities» (No. 7485, June 23, 2022), as well as negative consequences for the further development of space activities in Ukraine, as a result of strengthening the monocentric method of public administration in the field of space activities, similar to the way of the Soviet period. The study focuses on the issue of decentralisation in the field of space activities, as well as the importance of implementing horizontal regulation in this field because the implementation of the new draught law leads to the establishment of a monocentric system of public administration, which can be compared to the system of governance of the Soviet period, which is unacceptable today when Ukraine struggles for its European path and future development.

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Правові суперечності та прогалини в контексті Законодавства України про космос та безпеку

Анотація. Стаття присвячена дослідженню правових прогалин і суперечностей у контексті законодавства України з питань космосу та безпеки. Минулого року, під час повномасштабного російського вторгнення, народні депутати України подали на розгляд Проект Закону про внесення змін до Закону України «Про національну безпеку України» та Закону України «Про космічну діяльність» (№ 7485 від 23.06.2022). Метою законопроекту, як це зазначається у пояснювальній записці до нього, є вдосконалення законодавства з питань національної безпеки й оборони України, унормування структури й складу сектору безпеки та оборони,

системи управління, удосконалення державної системи стратегічного планування та ефективного використання можливостей космічної діяльності в інтересах національної безпеки, забезпечення використання космічних технологій та результатів космічної діяльності в умовах воєнного стану через повномасштабну російську агресію. Для досягнення зазначеної мети у законопроекті пропонується внести до законів України «Про національну безпеку України» та «Про космічну діяльність» зміни, внаслідок яких Державне Космічне Агентство України буде наділено новими повноваженнями та фактично включене до складу сектору безпеки та оборони. У статті здійснюється дослідження та правовий аналіз зазначеного законопроекту, правового регулювання у космічній діяльності розвинених країн, а саме США та Великобританії. У статті детально аналізуються правові норми законопроекту та відзначаються його основні прогалини в контексті неузгодженості з основним Законом України «Про космічну діяльність», а також негативні наслідки для подальшого розвитку космічної діяльності в Україні, в аспекті формування моноцентричної форми публічного адміністрування у сфері космічної діяльності.

При написанні статті використовуються методи теоретичного дослідження, пов'язані з глибоким аналізом фактів, з'ясуванням суті досліджуваних явищ, поясненням їх дійсності. На основі емпіричної інформації на теоретичному рівні відбувається розуміння досліджуваних об'єктів, а саме: космічної безпеки, взаємодії вимірів національної безпеки та вимірів космічної безпеки, виявлення важливості космічної безпеки в контексті прав людини та важливості дотримування людиноорієнтованих принципів в контексті космічної діяльності, а також публічне адміністрування у сфері космічної діяльності та національної безпеки України. Гіпотези та припущення є також важливими методами теоретичного дослідження, які використовуються. Ці методи полягають у створенні системи дедуктивно зв'язаних гіпотез. Формування гіпотез та припущень здійснюється в результаті використання історико-логічного та порівняльного методів.

В процесі написання статті досліджувалися питання публічного адміністрування у сфері космічної діяльності таких країн як США та Великобританія. Велика увага приділялась саме діяльності космічного агентства Великобританії в контексті правового регулювання та взаємодії з органами, котрі регулюють питання національної та космічної безпеки Великобританії. Важливим джерелом також є Науковий висновок

Головного науково-експертного управління Верховної Ради України щодо внесення змін до Закону України «Про національну безпеку України» та Закону України «Про космічну діяльність» в контексті невідповідності нового законопроекту основним положенням базового Закону України «Про космічну діяльність».

У статті також висвітлюється питання децентралізації у сфері космічної діяльності та важливість саме горизонтального урегулювання у цій сфері, особливо у воєнний час. Це питання розглядається в контексті наукової роботи Ітана Темпера «Великий вибух управління космосом: до децентралізованого регулювання космічної діяльності». Питання публічного адміністрування у сфері космічної діяльності потребує значної уваги, оскільки впровадження нового законопроекту № 7485 від 23.06.2022 призводить до формування та посилення моноцентричної системи, яку можна буде порівняти до системи правління радянських часів, що є не припустимим сьогодні, коли Україна бореться за свій Європейський шлях та розвиток.

Ключові слова: Державне космічне агентство України, Національна безпека України, НАСА, Космічне агентство Великобританії, космічна діяльність, децентралізація.