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THE QUESTIONS OF LEGAL ENSURING AND DEVELOPMENT OF EUROPEAN SECURITY

The article analyzes and systematizes the current legal framework for European security and activities of the OSCE. It has been established that the current stage of development of interstate relationships is characterized by a very dynamic changes and factors and, moreover, the emergence of new European security challenges. At the same time, legal norms defining effective mechanisms for a quick and effective response to security challenges and the mandatory implementation of the measures developed at the moment are not practically exist.

To create a strong and reliable system of effective responses to modern European security challenges, it is necessary to develop and implement and implement, within the framework of the Universal European Security and Defense treatment, a set of international treaties and agreements aimed at increasing the effectiveness of the security decisions.

Key words: *European security, OSCE principles, Security platform, European integration.*

Д. В. Приймаченко, О. В. Морозов, А. В. Пасічник. Питання правового забезпечення і розвитку європейської безпеки

У статті проведений аналіз і систематизація чинного правового забезпечення європейської безпеки і діяльності ОБСЄ. Встановлено, що сучасний етап розвитку міждержавних відносин характеризується доволі динамічною зміною стабілізуючих факторів та появою нових викликів європейській безпеці. При цьому правові норми, що визначають дієві механізми швидкого й ефективного реагування на виклики безпеки та обов'язковості реалізації напрацьованих заходів, на сьогодні практично відсутні.

Для створення міцної і надійної системи ефективного реагування на сучасні виклики європейській безпеці необхідно розробити і реалізувати в рамках договору Загальної Європейської безпеки й оборони комплекс додаткових міжнародних договорів і угод, направлених на підвищення дієвості проведення ухвалених рішень з безпеки.

Ключові слова: *європейська безпека, принципи ОБСЄ, Платформа безпеки, європейська інтеграція.*

Raising the issue. The current stage of international relations development between states is characterized by the various kinds of threats to the international security system. In modern conditions, a number of states increases and deploys offensive kinds of weapons, to conduct comprehensive informational, economical and military-political operations to change the established borders.

It brings the special neediness to address these issues for the European security system, which occupies a priority place in world politics. According to experts' estimates, over 14 thousand large and small wars have passed during the existence of Europe, which claimed the lives of 10s millions people. The most devastating were the two of them, where more than 60 million people died. At the same time, a unique culture has been created in Europe, phenomenal achievements in the field of scientific and technological development have been provided. In this regard, the problem of preserving peace in this region is extremely important not only for European countries, but also for preserving world peace [1, p. 15].

Analysis of the main publications. A number of scientific studies are devoted to the analysis of possible ways to strengthen European security and the further development of cooperation between the EU countries. The analysis of the European Union's strategy in the field of the Common Security and Defense Policy, the possibilities for developing EU-NATO cooperation is devoted to a study [2, p. 48]. In the article [3, p. 130], an analysis was made of the possibility of greater consolidation and independence of the EU countries in the implementation of the European defense and security policy which is something different from the United States. The paper [4, p. 82] is devoted to the study of the Common Security and Defense Policy of the European Union. Various approaches to the development of the European defense component like the form of the European armed forces, both autonomous from NATO and as a reinforcement of NATO, are considered in article [5, p. 1]. A study of the possibilities of developing cooperation between France and NATO in the field of security and defense was carried out in this article also [6, p. 229]. On the basis of an analysis of the relationship and relations of the European regional security complex with other international security complexes, article [7, p. 86] has established that in the European security system, states historically belonging to international security centers have an important influence.

The aim of article. The aim of this work is to analyze and systematize the existing legal framework of European security, as well as to identify possible areas for further development the system of international treaties and agreements which is aimed at strengthening it.

Statement of the main material research. The foundations of the European Security is formed the principles and obligations adopted in the Final Act of the Helsinki Conference on Security and Cooperation in Europe in 1975, where one of the main principles is the fundamental principle of international law – the principle of the inviolability of borders [8, p. 6]. The preparatory work for the preparation and adoption the relevant international act was carried out by the Ministers of Foreign Affairs in Europe, the USA and Canada (Vienna, 1973, 1973–1975). Then on August 1, 1975 in Helsinki, the leaders of 33 European states, as well as the USA and Canada, adopted and signed the Final Act of the Conference on Security and Cooperation in Europe – the CSCE. At the next meeting in Paris in 1990, it was decided to hold regular meetings among the heads of states and governments with a frequency of two years. At a meeting among the heads of states and governments in Budapest in 1994, the CSCE was renamed the Organization for Security and Cooperation in Europe – the OSCE. To date, the Final Act of 1975 has been supplemented by documents adopted at OSCE summits which were held in Helsinki (1992), Budapest (1994), Lisbon (1996), Istanbul (1999) and Astana (2010).

The OSCE's activities are based on the following goals [9, p. 3]:

- promoting the improvement of relations between the OSCE participating States and ensuring the conditions of genuine and lasting peace for the life of their peoples;
- promoting defusing political tensions;
- Recognition the principle of indivisibility European security, as a common interest to develop the cooperation among all European states;
- strengthening the role of the OSCE as a pan-European and transatlantic security forum;
- recognition the close relations between security in Europe and in the whole world;
- promoting and strengthening the fundamental human rights, economic and social progress, and the welfare of all peoples.

In the work of the OSCE, special attention is paid to activities in the field of human rights observance [9, p. 7]. The commitments made by OSCE participating States in the area of respect for human rights are aimed at ensuring full respect for human rights and fundamental freedoms; respect for the rule of law; implementing the principles of democracy by creating, strengthening and protecting democratic institutions, and promoting tolerance throughout the OSCE region. The OSCE's human rights activities focus on priority areas such as freedom of movement and religion, prevention of torture and human trafficking.

Since 2003, the OSCE has been an established mechanism to combat trafficking in persons, which is defined in Article 3 of the Palermo Protocol and is aimed at drawing public attention to this problem, as well as encouraging political will in the participating States to effectively combat this phenomenon.

The OSCE promotes democracy and assists participating States in building democratic institutions. As part of its democratization activities, the OSCE implements electoral assistance projects. However, the effectiveness of providing such assistance is not high. Thus, Kazakhstan, despite its membership and chairmanship in the OSCE, according to many experts, is one of the least democratic countries in the world.

The political bodies of the OSCE provide forums for political consultations at various levels and for making (by consensus) decisions that are politically binding for the OSCE and its participating States.

One of the main normative documents of the OSCE is the Code of Conduct that regulates the politico-military aspects of security and has a politically binding character [10, p. 6]. It developed the principles and obligations governing intergovernmental relations in the military-political sphere, enshrined in the Helsinki Final Act of 1975, the Charter of Paris for the New Europe of 1990 and the Helsinki Document of 1992.

At the stage of preparation to this document, there were several approaches to its creation. The main issue was the issue of obligations. Three proposals were presented for discussion: the EU, Hungary and Austria and the USA.

1. The EU sought to concentrate attention on the military-political aspects of security. The main focus was on political methods of regulating the use of armed forces within the state and against other states on the basis of democratic principles. The EU has made tremendous efforts to pursue its line of negotiations and has achieved significant results on many issues.

2. Hungary and Austria insisted that all the norms proposed by the EU should be summarized and only later specified in a separate document, which, in their opinion, could be included in the Vienna document on confidence- and security-building measures. Hungary also wanted the collective rights of national minorities to be taken into account.

3. The United States, like Hungary and Austria, sought a broad discussion. From them came the proposal to divide all the material into two parts. Actually, the code of conduct had to be limited to the military-political aspects of security. The same aspects that addressed security issues in a broad sense should have been included in the official statement – the Budapest Declaration. It was possible to find a compromise solution only before the summit in Budapest. A code of conduct had to be drafted in the short version proposed by the EU. At the same time, the meeting documents should include a clause on the commencement of work in 1995 on an expanded version of the code of conduct, including the rules governing behavior in areas has not yet covered.

The package of documents adopted by the summit (the Political Declaration “Towards a True Partnership in a New Era” and the Budapest Decisions) contained a number of major decisions aimed at a substantial increase in the effectiveness and efficiency of the CSCE. They contain fundamental provisions about the central role of the CSCE in building an unified and secure Europe, the necessity to ensure genuine partnership in European affairs, and the interests of all countries.

The Charter of Paris and the 1990 Supplementary Document to it laid the foundation for the institutionalization of the European security system through the creation of structures that were supposed to stimulate and guide the European process [11, p. 1]. The 1992 Helsinki Documents consolidated the main results of the Helsinki process’s transition to a new quality, recognizing it as a regional agreement in the sense of Chapter VII of the UN Charter, which opened the way for direct cooperation with the UN in maintaining, regulating and resolving conflicts.

The Code of Conduct was adopted at the 91st plenary meeting of the Special Committee of the CSCE Forum for Security Cooperation (FSC) at the CSCE Summit in Budapest in 1994. Put into action on January 1, 1995 [10, p. 6].

The code consists of 10 sections and 42 points. The code defines the following “external” commitments of the OSCE participating States (sections I – VI) [10, p. 1]:

- absolutely respect all the fundamental principles of the CSCE / OSCE, primarily the principle of the indivisibility of security;
- don’t strengthen its security at the expense of the other’s participating States security;
- act jointly and severally in the event of violation the norms and commitments made within the CSCE / OSCE framework;
- contribute of finding common answers to security challenges;
- don’t render assistance or support to states that use force or the threat of force against the territorial integrity or political independence of any state;
- maintain only military capability commensurate with legitimate individual or collective security needs.

In addition, the Code determines that each participating State may freely and independently determine its security interests on the basis of sovereign equality and has the right to freely choose ways of ensuring its own security in accordance with international law. In addition, the Code states that each state party has the sovereign right to belong or not to belong to international organizations, and also to be or not to be a participant of bilateral or multilateral treaties, including allied treaties.

Other provisions of the Code constitute a block of “internal” commitments, which, in particular, oblige OSCE participating States to consider democratic political control over military and paramilitary forces, internal security forces, as well as intelligence services and the police as an indispensable element of stability and security [10, p. 4].

In this context, joint and national measures were envisaged on such aspects of indivisible and interrelated security as disarmament, the fight against terrorism, the exercise of the right to

individual and collective self-defense, confidence building, the creation of healthy economic and environmental conditions, etc.

A separate section is devoted to cooperation in the fight against terrorism. The right of each state to participate in union treaties and to neutrality has been confirmed. Each state, according to the Code, can have only such military potential that is necessary to maintain its individual or collective security. The deployment of armed forces on the territory of another state is allowed only in accordance with the agreement, as well as in accordance with international law. The Code commits in good faith to implement agreements in the field of disarmament and arms control.

The Code considers cooperation in the field of economics and ecology to counteract the political aspects of security in order to counteract the growth of tensions that could lead to conflict. Violations of human rights, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism are also recognized as a potential source of tension. In the event of an armed conflict, the states will seek to help end hostilities and create favorable conditions for its political settlement. As an important element of stability and security

The Code recognizes democratic political control over military and paramilitary forces, exercise of restraint in military spending, and open information about the armed forces.

In accordance with the Code, States are obliged to ensure compliance with:

- international humanitarian law;
- The Hague Conventions of 1907 and 1954;
- Geneva Conventions of 1949 and Additional Protocols of 1977.

1980 The 1980 Convention on the prohibition or restriction of the use of specific types of conventional weapons that may be considered as causing excessive damage or having a non-selective effect.

The 1996 Lisbon Declaration on the Common and Comprehensive Security Model for Europe of the 21st Century elaborated and developed the indicated conceptual foundations of European security [12, p. 5]. It emphasized the need to create a unified security space, the core elements of which are the comprehensive and indivisible nature of security, adherence to shared values, obligations and norms of behavior. Security must be based on cooperation and based on democracy, respect for human rights, fundamental freedoms and the rule of law, a market economy and social justice. It must proceed from the inherent right of each State party to freely choose or change ways to ensure its security, including allied treaties, as they evolve. None of the OSCE participating States should strengthen their security at the expense of the security of others.

In doing so, the participating States undertake:

- act in a spirit of solidarity to promote the full implementation of the principles and commitments of the OSCE enshrined in the Helsinki Final Act, the Paris Charter and other CSCE / OSCE documents;
- to hold urgent consultations – in accordance with OSCE commitments and fully using OSCE procedures and tools – with the participating State whose security is at risk, and jointly consider actions that may be required to protect our shared values;
- not to support participating States that, in violation of international law, use force or the threat of force against the territorial integrity or political independence of any participating State;
- attach importance to the security interests of all participating States, regardless of their affiliation with military structures or agreements.

The Charter for European Security, adopted at the OSCE Istanbul Summit on November 19, 1999, defined the foundations of European interaction at the beginning of the 21st century [13,

p. 1]. In this sense, it can be considered as a kind of constitution for a new Europe. She reaffirmed the full commitment of the participating States to the UN Charter, the Helsinki Final Act and other OSCE-adopted documents that formulated clear standards for the treatment of participating States with each other. This means that respect for the sovereign equality of states, their territorial integrity, inviolability of borders, non-use of force or threat of force, peaceful settlement of disputes, non-interference in internal affairs, respect for human rights, etc., remain the generally recognized basis of international relations in Europe. The Charter emphasizes that the faithful fulfillment of all OSCE commitments without exception is essential for relations between states.

The Charter recognizes that the OSCE is the main organization for the peaceful settlement of disputes in the OSCE's area of responsibility and the main tool in the field of early warning, conflict prevention, crisis management and post-conflict rehabilitation. The Charter enshrines the important provision that within the OSCE no state, group of states or organization can be given primary responsibility for maintaining peace and stability in the OSCE region or to consider any part of the OSCE region as its sphere of influence. At the same time, the Charter assumes the broadest cooperation between the OSCE and the competent European organizations, taking into account the key coordinating role of the OSCE as the only pan-European security organization designed to ensure peace and stability in the region.

The Charter establishes a provision limiting the expansion of military alliances: this process should not prejudice the security of the OSCE participating States. It also stressed the willingness of the participating States to build their relations in the spirit of partnership and mutual assistance. However, such assistance will be offered subject to the consent of the State party concerned or his request for such assistance.

The Charter and its annex, the Security Platform for Co-operation, envisaged a number of concrete measures to strengthen the operational capacity of the OSCE:

- adopt a co-operative security platform in order to strengthen co-operation between the OSCE and other international organizations and institutions and thereby ensure the better use of the resources of the international community;
- develop the role of the OSCE in maintaining peace, defining more clearly the Organization's comprehensive approach to security;
- create operational expert support and co-operation groups (REACT), which will enable the OSCE to respond quickly to requests for assistance and to conduct major civil operations in the field;
- expand our policing capacity to assist in maintaining the rule of law;
- Establish an Operations Center for planning and deploying OSCE field operations;
- strengthen the consultation process within the OSCE through the establishment of a Preparatory Committee to the OSCE Permanent Council.

Summery. The analysis of the normative legal acts of the definition of the activities of the OSCE shows that they mainly set forth declarations defining practically the whole spectrum of the organization of safe cooperation between European states. However, legal norms defining effective mechanisms for a quick and effective response to security challenges and the mandatory implementation of the measures developed at the moment are practically absent. Therefore, to create a strong and reliable system of effective response to modern European security challenges, it is necessary to develop and implement a set of international treaties and agreements within the framework of the Common Security and Defense Policy, defining mechanisms for monitoring the effectiveness of security decisions made and for not implementing them.

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Д. В. Приймаченко, О. В. Морозов, А. В. Пасечник. Вопросы правового обеспечения и развития европейской безопасности

В статье проведен анализ и систематизация действующего правового обеспечения европейской безопасности и деятельности ОБСЕ. Установлено, что современный этап развития межгосударственных отношений характеризуется весьма динамичным изменением стабилизирующих факторов и появлением новых вызовов европейской безопасности. При этом правовые нормы, определяющие действенные механизмы быстрого и эффективного реагирования на вызовы безопасности и обязательной реализации выработанных мер, на данный момент практически отсутствуют.

Для создания прочной и надежной системы эффективного реагирования на современные вызовы европейской безопасности необходимо разработать и реализовать в рамках договора Всеобщей Европейской безопасности и обороны комплекс дополнительных международных договоров и соглашений, направленных на повышение действенности проведения принятых решений безопасности.

Ключевые слова: европейская безопасность, принципы ОБСЕ, Платформа безопасности, европейская интеграция.

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