

NATIONAL SECURITY AS A LEGAL CATEGORY

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Abstract

This article describes such notions as “security”, “national security”, types of national security, recent changes in the National security of Bulgarian doctrine. According to the author trust and partnership relations between governments changed to the sanctions and misunderstanding, there are also economical, migration, ecological, social and other types of crises, military collisions and other problems, which effect national security of any country.

Keywords: *security, ecological security, informational security, national security, military security, national interest, threat to national security.*

The development of public ideas to guarantee national security, requires a more precise specification of this concept. Unfortunately, practice and theory do not give an approved definition. National security is a rarely defined concept. Indeed, there is a defining problem that leads either to a narrow orientation of security policy and activities, or to an overly broad and disorienting interpretation.

On the other hand, a natural property of such general and volumetric terms as national security is to have polyvalent meaning. As a consequence, when actions based on broad consensus have to be reached, each of the participants has the opportunity to apply their own point of view and enrich the basis for a common solution. The ambiguity of the concept of national security reflects subjectivism in its perceptions.

However, it is desirable to have a general degree of conceptualization of the notion that guides policy makers and enables public consensus and control of their decisions and actions.

Efforts to draw up conceptual content are not permanent. There are clearly periods of intensification of this aspiration.

The current period of international relations marked by the end of the Cold War is a period of redefinition of this concept for ours and for the countries affected by the change. Obviously, attention to national security is growing in times of crisis in which society clearly notices the inconvenience of existing concepts after failing to deal with emerging threats.¹ Similar examples of the country include periods of caution to economic security in the seventies, and environmental security in the in the seventies and ecological security in the eighties.

It can be concluded that a more general definition implies a sense of greater openness and uncertainty, and consideration of a wider range of potential threats to the country. Again, a narrower interpretation is a

consequence of internal imprisonment and the search for guarantees in traditional power means of security.

There is no legislative act in the country covering the determinants of national security. The most important of them, foreign policy, internal politics, defense, the economy have or are undergoing legal normalization but are not systematically subordinated to the common security objectives. Even less are the links of other spheres of public practice with security. Industry, agriculture, commerce, finance, science, education, health care, social protection remain unconnected with the issue security. It is inseparable from the security of the subregion, the region and the world because of the open nature of public systems and their interdependence.²

Security is an antithesis of uncertainty. Both concepts here refer to the state of the national public system. They reflect the probability of a system transition from a desirable mission-proofing state to an unwanted and non-mission-critical state. Greater certainty means less likelihood of transition and non-fulfillment of the mission.

Security is a measure of the complex ability of the system to perform the mission. More abstractly, this possibility is a function of the ability to achieve the mission in a favorable, indifferent or unfavorable environment.

The security of the national system consists of internal and external security. It is inseparable from the security of the subregion, the region and the world because of the open nature of public systems and their interdependence.

The issues directly related to the problem are the roles, risks and responsibilities that the country has to take to build its place in the common and indivisible security system. The resulting political, economic and military security, with which the country will build common security, are the result. The classical notion of national security usually comes down to securing national integrity, independence and sovereignty.

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¹ Владикин, Л. Общо учение за държавата. С., 1992

² Балканската сигурност. Политически и военни проблеми. Под ред. На А. Лилов, Изд. Хр. Ботев, 1995

Traditionally, national security means military security of the country and is directly related to its defense and power structure. In this narrow aspect of the concept attention is directed to the characteristic of the potential conflicts from which he attempts to draw the necessary qualities of the power structure.

War as a classic form of conflict is seen in close association with the state and politics. Charles Tilly states that War is doing the state, and the state is making war. Dominating the notion that war is a continuation of politics by military means. J.Loesser writes that politics is a continuation of the war with other means.³

With this approach of over-linking war with politics, a major problem and the most important means of ensuring security is building and maintaining the army and the armed forces. Attention is directed to the adequate principles of military construction and to the preconditions for maintaining and developing the military, defense ability. Primitive questions become the spiritual and material foundations of the military (defense) potential and military power.

It is emphasized that military power determines the character of military policy, but also the pace of social, economic and society development.

It is considered as a function of the possibility of triggering the military (defensive) potential of the country determined by the population, capital, territory, political system, form of government and state structure, the nature of domestic politics.

The adoption of a military concept in the construction of the national security system (integrity, independence and sovereignty) involves different perceptions of the acceptable application of force in international relations.

Looking at the issue of national security, however, shows that the traditional paradigm is increasingly inadequate to this problem.

Military security as a foundation of national security does not disappear, but it lags behind other components such as economic, environmental, information security.

In a period of changes and social destabilization, it is clear that security is based on a complex balance of multiple determinants that change their importance and role depending on the current circumstances. Most of them have a non-military nature, but nevertheless reflects serious security threats.

There are various aspects of insecurity. Their addressing to social development, however, makes it possible to relate to the perceptions of public life and the priorities of policy. The issue of the current interests of society and the means of guaranteeing them comes to the fore. Security is perceived as a state of the public system that guarantees current and potential interests

and freedom of decision and action. With every change in the security paradigm, arises a discussion about national interests and priorities of the external policy. Combined with the threats and the main means of their prevention, they build a strategic concept of security. Risk analysis explores the interaction of goals, interests and threats and is a necessary element of political, economic and strategic security planning.

A key point in risk analysis and development of security and defense concepts is the determination of the system of public values and interests.

The theoretical problem that arises in defining the notion of interest can be avoided by accepting the practical concept, that public interest is a sign of the possibility of achieving goals-desires, and the satisfaction of related needs arising under specific circumstances and relationships in the public environment. Interest is an urge for activity and a transition from goals-to-goals.

Objects of interest may be different spiritual and material values. Such can be the institutions and the relationships that society creates to preserve its values. Thus, interest becomes a tool that influences the socio-political behavior of the community-state, nation, class. The foreign-political sphere is dominated by state and national interests, while domestic policy is more influenced by class, professional, group, ethnic, minority or other societal-group interests.

Ensuring or preserving the public material and cultural well-being is a major political task, since it meets a major public interest. Ensuring external security is a means of preserving the political interests of the nation and the state. Internal security must ensure the quality of citizens' lives and ownership.⁴

In its operation, the security system, defense faces many risks, threats and challenges. All of them must be kept under control, identified and evaluated depending on their security impact.

In 1983, Richard Ulman gives an interesting definition of the threat by asserting that "it is an action or consequence of an event that seriously threatens to destroy the quality of life of the country's citizens or threatens to significantly narrow the range of political alternatives, available to the state government or personal non-governmental beings (people, groups, corporations) in the state." The first component of this definition is logical because the quality of life is a value of the highest order for society. The second component, however, emphasizes the liberal nature of the state and its main function - to protect individual rights and the right to choose adequate political decisions.⁵

With the rapid evolutionary development of the term national security, the question is how this concept has influenced, influenced and how it will influence the development of the democratic state.

³ Иванов, Т., Новата роля на държавата за гарантиране на националната сигурност, Научен алманах на ВСУ, Серия "Общество и личност", 2002, кн. 4, стр. 39-50.

⁴ Генов, Г., А. Гочев, Д. Динков, Националната сигурност и демократизирането на гражданско военните отношения в България, кн. 2, С., 1997.

⁵ Romm J. Detining National Security. The Nonmilitary Aspects. CFRP, 1993

In order to find an answer to this question, we must start from the basic and top-level law - the Constitution. Here is the basic concept of security, the constitutional term of national security. Each chapter, article and paragraph of the Constitution of the Republic of Bulgaria seeks to reach the so-called state of national security. The correct definition of the constitutional term national security also reveals the essential meaning of the democratic, legal and social state. It is because of this fact that the political, social and economic meaning of this concept is studied. Covering the legal aspect of state security, the constitutional term lays the foundation for the development of a stable and secure public life. These are the directions of action of the constitutional term national security. The first guideline deals with internal order and internal activities carried out on a purely political, economic and social level, linked to the influence of the term security. That is why the Constitution should consider these actions taking place on the territory of the Bulgarian state. The second guideline is tied to external or more international relations concerning our national security. In its role as a basic law, the Constitution directly influences public relations, which is why the very constitutional term of national security is directly related to the building of a stable and secure country. The authors of the Constitution of the Republic of Bulgaria have pointed the way to opening and clarifying the term national security. Although no modern constitution, in which the term national security is used, there is no precise and clear definition of the content of this term, it can still be understood the direction of political thinking and the frameworks to which the security of the state extends. The constitution itself encompasses every element of national security and defines the basic functions. Any basic and legal wording of the term national security is, and should be, tied to the constitutional view of this concept. At the heart of any modern and democratic state lies the general legal notion of the term national security. The main issues related to Bulgaria's security are mainly considered at the constitutional level and are related to the general principles of democratic governance, which are expressed in the separation of powers and their mutual control. The definition of the Bulgarian state given by the Constitution is that it is a democratic, legal and social state. By formulating these basic values rooted in freedom, equality, peace, justice and tolerance, reveals the direction and purpose of the constitutional term national security. The term national security can be found in five places in the Constitution of the Republic of Bulgaria. Each one reveals in a separate way how the very notion of security is entangled in complex social relations. Although the definition of national security is not present in the preamble of the Bulgarian

Constitution, we can still find its essence related to: "the rights of the individual, its dignity and security are supreme value". The first reading is one of the main elements of national security, which is personal security. As we know, national security encompasses the values, needs, interests and needs of the person. Their protection is a fundamental objective concerning both the constitution and the constitutional term. Every law concerning the domestic or foreign policy of the country is primarily related to the protection of a fundamental value, comprising and encompassing the whole concept of national security⁶. Bearing in mind that the Constitution is a fundamental law in every country, the definition given to it in the security law automatically becomes applicable to it. Considering the essential characteristics of the Constitution, which are the achievement and protection of public rights and obligations, we can say that it is heavily influenced by the definition of national security at the theoretical and legal level. The organization and management of the national security system takes place at two main levels. These levels cover the internal and external subsystem disclosed by the Constitution.

The external subsystem of national security is a fundamental part of the constitution of the Republic of Bulgaria.⁷

Considering Article 2, paragraph 2 of the Constitution stating that the territorial integrity of the Republic of Bulgaria is inviolable, we can come to the conclusion that the basic purpose of the concept of national security, expressed in the security of a state, has given a fundamental form to that vision. Further, the constitution also mentions the means by which these values are stated. Art. 9 places a particularly important place on the Bulgarian armed forces, which are called upon to guarantee and protect the sovereigns, the security, the independence of the country, to defend its territorial integrity and unity. The Constitution of the Republic of Bulgaria creates and defines the duties of every citizen, including those outside the circle of the State Armed Forces. In Art. 59 para. 1 states that the protection of the state is an irrevocable duty and honor for every Bulgarian citizen, and the most serious crimes punishable by the extreme severity of the law are betrayal and treason to the homeland. The Constitution of the Republic of Bulgaria demonstrates the conviction and security of the legislator that the protection of independence, territorial integrity, sovereignty of the state can only take place within a "fair international order". This phrase is used in the part of the constitution where the foreign policy of the country is spoken. The first part of Article 24 proclaims the fundamental role of the foreign policy of the Republic of Bulgaria in which it is carried out in accordance with the principles and norms of international law. In the following, the main goals of

⁶ Ivanov, M. Nazism and islam, Сборник научни трудове, Шумен 2018, Университетско издателство „Епископ Константин Преславски“, стр. 199

⁷ Христов, П., Класификация на заплахите на националната сигурност като метод за тяхната идентификация и оценка, Научен алманах на ВСУ, Серия "Юридически науки и обществена сигурност", 2001, кн. 1, стр. 20-29.

the Republic of Bulgaria, which are naturally the national security, the independence of the country, the prosperity and the fundamental rights and freedoms of the Bulgarian citizens, as well as the assistance for the establishment of justice and international order are outlined. In the direction of the principle of active participation of Bulgaria in international conditions for peace and cooperation, it should be interpreted and the explicit mention in Art. 4 para 3 that the Republic participates in the construction and development of the European Union. The policy aimed at achieving a fair international order also involves taking care of political refugees. The Constitution of the Republic of Bulgaria provides in Article 27 (2) that the State provides shelter to foreigners persecuted for their beliefs or activities in defense of internationally recognized rights and freedoms.

Particularly special regard to the foreign security of the Republic of Bulgaria has some constitutional provisions on information. According to Art. 41 the right of every citizen to seek, distribute and receive information may be restricted for reasons of national security.

The Constitution of the Republic of Bulgaria lists a whole set of mandatory internal characteristics of the state. These are the sovereignty of the people, its legal nature, the division of powers, political pluralism, parliamentary rule, the ban on the formation of autonomous territorial education, the state guarantee of life, the dignity and the rights of the individual. The Constitution of the Republic of Bulgaria contains some prohibitions concerning direct internal security. Art. 44 para. 2 prohibits organizations whose activities are directed against the sovereignty, territorial integrity of the country and the unity of the nation, to the raging of racial, national, ethnic or religious enmity, to violation of citizens' rights and freedoms, as well as organizations that create secret or militarized structures or strive to achieve their goals through violence.

According to some Bulgarian authors, some of these provisions contradict the international right to freedom of association and established legal standards in developed democracies. International standards in this regard are summarized by the so-called Venice Commission to the Council of Europe in a report that explicitly states that it is permissible to prohibit political parties only in cases where they propagate violence or use of violence as a political means of rejecting the democratic constitutional order. In

practice, there are parliamentary parties in Europe working for territorial separation. Examples are the United Kingdom and Spain. The Belgian constitution, for its part, allows the ethnic German population to have its own government, and in Denmark the Danish minority is actively represented in local government bodies.

In today's world, it is becoming increasingly important to define the term national security. In order to convey the form of a major part of the state, it must necessarily be present in its constitutional form. The constitutional term national security defines the boundaries within which the security concept stands. This understanding encompasses the external and internal aspects of the state. Any economic, political or social earthquake directly affects national security. Similarly, the external influence of other countries as well as the international situation of the Bulgarian state can be considered.⁸ The foundations on which the constitutional term national security is based lie precisely in the constitution itself. There is no constitution that directly describes the whole structure of national security, but each constitution considers the impact of this term on internal and external processes concerning state related to government. Each constitutional provision sets out some of the most important goals, and these are the building of a stable and functioning state whose function is to protect the rights and freedoms of the individual. It should not be forgotten that the main element of national security is personal security. Secondly, it is public, and as a higher level is state security. Building a stable and above all safe country would be impossible in the face of an unstable economic situation. From a legal point of view, security in one country occurs only when the internal and external situation of the country is in balance with the basic dogmas of national security. In order to build the new kind of public relations related to national security it is necessary for it to find its constitutional expression.

This is naturally achieved through a long process of evolution of the concept of national security. It forms a completely new form of governmental and political governance.

Thanks to the constitutional term national security, it is possible to shape and construct a new concept of domestic and foreign policy of a state influenced entirely by the legal sense of security.

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⁸ Христов, П., Конституционният термин национална сигурност. В сб. Конституционализъм и съвременното развитие на България, Варна, 2002, стр. 116-130.

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