

Nalyvaiko Larysa
Vice-Rector of the Dnipropetrovsk
State University of Internal Affairs,
Doctor of Law, Professor,
Honored Lawyer of Ukraine

THE CONCEPT AND FEATURES OF STATE SYSTEM GUARANTEES

The formation of a modern state system necessitates a scientific search in the field of guarantee in order to ensure its adequacy to the realities and prospects of socio-political development. At present, there is no comprehensive substantiated approach to defining the concept, features, classification criteria and types of state system guarantees.

The state system guaranteeing is actualized by the need to improve the activity of the state as a whole and of separate bodies of state power which are intended to ensure the stability of its basic principles and institutions. The existence of a system of state system guarantees is a mandatory consequence of the existence and formation of a certain type of state system. In the absence of state system guarantees, the possibility of considering it as a functionally and structurally stable, political and legal phenomenon is lost.

In jurisprudence, there is hardly another category that is so commonly used and, at the same time, has such a broad semantic form which contains a wide variety of meanings. This category is guarantees. In some cases we are talking about guarantees of legality, in others – about legality as a guarantee, about guarantees of the constitutional order, about guarantees of law and order, about law enforcement guarantees and law enforcement as a guarantee, about guarantees of the rights and freedoms of citizens and about the rights of a person as a guarantee of his freedom, etc.

Guarantees are one of the main issues in the problem of the correct application of legal norms, the assurance of legality and many other processes of legal validity. The concept of guarantee is quite widely used in various spheres of human activity, in politics, philosophy, diplomacy, as well as in everyday, non-professional word usage [1, p. 153]. Studies of individual theoretical aspects of the state system and elements of the system of its guarantees were carried out by domestic and foreign scientists: M. Abdulaiev, N. Bobrova, M. Vitruk, A. Kolodii, V. Kopieichikov, V. Korelskyi, V. Kotiuk, M. Marchenko, O. Mickiewicz, O. Negodchenko, M. Orzikh, V. Perevalov, V. Pogorilko, A. Polianskyi, Zh. Pustovit, Yu. Sokolenko, M. Stavniichuk, E. Supruniuk, V. Tatsii, Yu. Todiuk, O. Fritskyi, V. Shapoval, Yu. Shemshuchenko, Yu. Shymin and others.

From the legal and technical side, the guarantee can be described as the proper activity of the subjects of law for the purpose of realization, actualization of certain social interest provided by legal protection. In such a context, the state of

guaranteeing is determined by certain positive activities of the subjects of law, and in case of a breach of the balance of their interests, by the need for the use of instruments of legal protection and legal responsibility [2, p. 129].

In the theory of state and law, under “guarantees” some scholars understand the system of conditions, means and methods that provide each and every level of opportunity [3, p. 504]. Others define “guarantees of democracy” as objective conditions and means that ensure not only the proclamation and legal consolidation of democratic principles, ideas, rights and freedoms of citizens, but also their comprehensive protection and implementation [4, p. 77]. P. Rabinovych believes that the “guarantees of legality” are a system of means by which legitimacy is introduced, protected and, in the event of a breach, established in public life. In its turn, the scientist defines “legal guarantees of legality” as special means of introduction, protection and, in case of violation, restoration of legality [5, p. 116]. Yu. Oborotov believes that the decisive principle of forming a system of legal guarantees of rights and freedoms is the universality of their provision in all ways that are not contrary to the law. At the same time, among the legal guarantees of rights and freedoms Yu. Oborotov distinguishes the guarantees of implementation and guarantees of protection [6, p. 86-87]. Thus, in the theory of state and law, the main focus is on the guarantees of the realization and protection of human and citizen rights and freedoms, since the protection of individual rights is the key to the development of a democratic state.

In addition, it should be noted that in legal science, the content of guarantees is often limited to the protection of legal norms, in particular, the reduction of guarantees to sanctions, the establishment of liability for their violation. However, if this principle is applied to other areas of law, especially those characterized by the regulation of public relations through prohibitions, this approach is correct. However, it seems rather limited, for example, for constitutional law. The specificity of the method of legal regulation of constitutional law is determined by the social function of this branch of law, which is characterized by the ability to guarantee the existence of certain social phenomena in reality.

The general theoretical guarantee can be defined as a certain phenomenon that ensures a concrete positive result.

Terminological ambiguity in the sphere of state system guaranteeing in terms of its democratic modification adversely affects both the development of legal doctrine and the practice of state formation.

All social conditions, factors, phenomena that are part of the process of formation of the Ukrainian state system, which affect it, create a social background (environment), are considered for the subject of their guaranteeing power through the legal prism and legal “equivalent”, through those criteria produced by the legal science, which allow us to distinguish the general prerequisites of reality, the state system guaranteeing from the actual guarantees of its implementation in the aspect of ensuring democracy and stability.

Scientific elaboration of this problem allows to define the Ukrainian state sys-

tem guarantees as a system of general conditions and special (normative-legal and organizational-legal) means that ensure the existence and effectiveness of institutions of the state system.

The state system guarantees serve as a basis for the formation of certain social relations that have a common specificity. This allows them to be grouped together and characterized by distinguishing common features that are inherent in state system guarantees in general.

Hereafter, we will consider the basic features inherent in the Ukrainian state system guarantees.

1. Formal certainty. The state system guarantees, first of all, are enshrined in the Constitution and legislation of Ukraine. The role of the Constitution and laws of Ukraine in the state system guaranteeing is recognized by many researchers. Moreover, in a number of works it is pointed out that the Constitution (as a normative legal act of the highest legal force) is not only a guarantee of the stability of the state system, but also in general, is a condition for its existence [7, p. 95].

2. Systematicity. The systematicity of state system guarantees is determined, first of all, by the principle of systematicity of law. Systematicity of law, in turn, is a manifestation of social processes. The system of law in action is the interoperability of its individual elements, where the effectiveness of the whole chain of guaranteeing depends on the individual link, since the interconnection of phenomena helps to understand their essence more deeply. The system of state system guarantees can vary (for example, the range of subjects – government guarantors may be narrowed or expanded). However, the existence of these guarantees is a necessary consequence of the existence and formation of a state system of a certain type.

3. Purposefulness. First of all, ensuring any relationship or process is the basis of the concept of guarantees. This feature makes it possible to distinguish this legal phenomenon from others, such as subjective law, legal obligation, to single it out into an independent category, if the legal phenomenon does not ensure the achievement of the purpose, which is set in a certain phenomenon, it cannot be considered a guarantee [8, p. 10]. In addition, the guarantee cannot exist as an independent phenomenon, regardless of the specific object, because the securing process always involves the presence of the object.

4. Procedurality. The realization of the goal set out in the guarantees implies the existence of procedural actions without which it is impossible to achieve a positive result. State system guarantees are largely determined by the behavior and activities of the subjects concerned. Therefore, when determining the state system guarantees, first of all, it must be assumed that they in any case have the subject of the activities of the relevant subjects. The subjects that ensure the sustainable functioning and development of the state system include: the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, citizens of Ukraine, state-owned enterprises, institutions, organizations and more. Their activities are aimed at guaranteeing the rule of law.

5. Materiality. This feature is characterized by the fact that the state system guarantees are contained and enshrined in the norms of law, embodied in the acts of enforcement. Mandatory prerequisites for the possible and proper conduct of persons exercising power are legal acts that determine the conditions under which certain persons acquire a specific subjective right and have an appropriate legal obligation.

6. The permanent nature of the guarantees and the determination of the powers of the guarantor subjects. That is, the existence of actions or events with which the rules of law are associated with the occurrence of legal consequences, indicates the period of validity of guarantees, and in accordance with the constitutional principle of organization and activity of public authorities, we have a clear determination of their powers. For example, in the activity of such a subject of the state system as the Verkhovna Rada of Ukraine, the functioning of the guaranteeing mechanism begins after the occurrence of legal facts that determine the conditions for acquiring parliamentary powers, and ends with the termination of powers of the deputy, that is, the end of certain events and actions (sessions, meetings, etc.) or the attainment of a goal stipulated in the rule of law on the possible or proper conduct of a deputy, etc.

7. Effectiveness. The effectiveness of a legal phenomenon has traditionally been defined as the ratio between the actual result of the action of legal norms and those social goals to achieve which these norms were adopted [9, p. 124-126]. The research area is the most complex criteria for measuring performance, diffusion, systemic action and counteraction. It is virtually non-dimensional, such as quantitative indicators of economic or legal effectiveness. It is difficult to apply the methods of specific sociology together with all the criteria for its measurement. Another feature of the effectiveness of state system guarantees is that it always has a political side associated with the development of democracy, the rule of law, and therefore it must be evaluated no less than the achievement of results in the economic sphere.

Indicators of the effectiveness of state system guarantees are both the qualitative state of the norms of the Constitution and other normative legal acts, as well as the mechanism of ensuring their implementation in social reality.

8. Adequacy of guarantees (orientation to the real level of development of public relations). The norms that correspond to the level of development of social relations, consistent with the system of law can be guaranteed.

The specificity of their legal nature is influenced by the implementation of the rules guaranteeing the state system order. They are an important constituent of the Constitution, have a high level of normative generalizations, have a special content and in a concentrated form fix the basic provisions on the organization and functioning of the state and its institutions. The unity of the distinguished features characterizes the mechanism of guaranteeing state system, which ensures the smooth and efficient functioning of both the whole state mechanism and the state as a whole.

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Бойко Анжела Іванівна

доктор філософських наук, доцент,
завідувач кафедри філософських і політичних наук

Синьогуб Ігор Олександрович

аспірант кафедри філософських і політичних наук

(Черкаський державний технологічний університет)

ФІЛОСОФСЬКИЙ ЗМІСТ ГУМАНІТАРНИХ ВИКЛИКІВ В КОНТЕКСТІ ГУМАНІТАРНОЇ БЕЗПЕКИ УКРАЇНИ

Національна безпека має онтологічний (буттєвісний вимір), який полягає в фізично-подієвом вимірі. Так, за поширеним словниковим визначенням «Національна безпека – це захищеність життєво важливих інтересів громадян, суспільства та держави, а також національних цінностей та способу життя від широкого спектра зовнішніх та внутрішніх загроз, різних за своєю природою (політичних, економічних, військових, екологічних, психологічних тощо). Це також стан держави, що дає можливість їй зберігати свою цілісність і виступати самостійним суб'єктом системи міжнародних відносин» [1].

Разом з тим, формування національної безпеки має гносеологічно-ідеалістичний вимір, який полягає в формування саме гуманітарного напрямку безпеки. На наш погляд, важливість гуманітарної безпеки полягає в тому,