

ЕКОНОМІКО-СОЦІАЛЬНІ ВІДНОСИНИ В ГАЛУЗІ ФІЗИЧНОЇ КУЛЬТУРИ ТА СФЕРІ ОБСЛУГОВУВАННЯ

Тези доповідей
VI Міжнародної науково-практичної конференції
(9–10 травня 2024 року, м. Львів)

За загальною редакцією
Наталії ПАВЛЕНЧИК

Львів
ЛДУФК ім. Івана Боберського
2024

ECONOMIC SANCTIONS AND NATIONAL SECURITY*Tetiana Drakokhrust,**Doctor of the Science in Law,**Associate Professor,**Department of Theory of Law,**and Constitutionalism, Professor**West Ukrainian National University (Ukraine)**ORCID: <http://orcid.org/0000-0002-4761-7943>*

The legal nature of sanctions lies in defining the negative consequences of violating the requirements and provisions of the law and taking measures to ensure compliance with legal requirements and accountability for such violations. The formal-logical aspect of the content of sanctions is used in the legal construction of a norm, where sanctions are defined as formalized consequences of unlawful behavior, specifying particular types and degrees of accountability or punishment.

The semantic characteristic of sanctions (from Latin «sanction» – the most severe, inviolable decree) also relates to the authoritative permission regarding the implementation of certain measures of organizational-legal nature, concerning managerial activities, and in criminal proceedings – concerning the rights and freedoms of process participants.

It is noted that the term «sanctions» is polysemantic (having multiple meanings). However, under all circumstances, whether economic, political, administrative, or criminal-legal in character, sanctions are reduced to the legal content of certain actions and decisions both in terms of their determination and application.

Sanctions, as an element of legal norms, always entail a procedure for application and must correspond to the authority of specific bodies regarding their application. The only exception is judicial competence concerning the application of sanctions to individuals who have committed administrative or criminal offenses or to participants of legal relations who have breached obligations stipulated by the terms of concluded contracts (civil, commercial, administrative), when such breach is not acknowledged.

The issue of sanctions in labor law is currently quite relevant and subject to much debate, as sanctions pertain to the fulfillment of conditions stipulated in labor contracts, labor discipline, occupational safety, and material liability of the parties involved in labor contracts. In Ukraine, this issue has been significantly

highlighted with the adoption and implementation of the Law of Ukraine «On Lustration», particularly concerning the grounds for termination of employment contracts and the prohibition of holding positions in state authorities. These measures can be considered sanctions against individuals affected by such provisions, but they often contradict the provisions of the Constitution and the practice of the European Court of Human Rights.

Constitutional and legal sanctions play a crucial role in cases of non-compliance with duties defined by the Constitution or exceeding constitutional powers. In such cases, sanctions may be institutional, targeting specific branches of government or their leaders.

International legal sanctions are applied in accordance with international legal acts against states, legal entities, or individuals who have violated international legal norms. These sanctions are significant in maintaining international order or legality, which entails strict adherence to the norms and principles of international law.

The unity of two requirements is fundamental for national and international legal orders, forming the legal content of sanctions: 1) compliance of sanctions with provisions of national legislation in the first case, and with international legal acts and principles of international law in the second case; 2) adherence to legal procedures or procedural forms of applying sanctions [1].

It is essential to emphasize the unity of these requirements, which is conceptually significant both in understanding the legal nature of sanctions and in comprehending the legal significance of the consequences of applying sanctions.

The theoretical generalization and scientific assessment of applying sanctions, which constitute an element of legal norms, are not difficult, following the known formula: «if certain actions or inactions are taken by an individual, then specific negative consequences occur for that individual», thus: «if – then – otherwise».

The quality and effectiveness of applying sanctions lie in achieving their objectives, which have complex meanings:

- Holding violators accountable;
- Restoring the state that existed before the violation of legal norms;
- Halting the violation of rights;
- Ensuring fair and expected satisfaction in case of rights violations. Sanctions are characterized by legal coercion against violators [2].

The rule of law is the fundamental principle both in defining sanctions and in their application. Derived from the rule of law is the principle of legality – sanctions must be based on legal provisions and prescribed by law.

The most acute issues, requiring strict adherence to the principles of law, concern the application of sanctions by states to protect national interests. Such sanctions are established by states in relevant legislative acts based on the

principle of the rule of law and are guided by general international recognition in accordance with the principles of international law, thus representing a certain sanctioning mechanism existing in national law and dependent on international legal principles both in its existence and application.

The judicial procedure for applying sanctions involves the statutory procedure for recognizing by the court the unlawfulness of actions or inactions, establishing the elements of the offense, and rendering a judicial decision on liability, damages, and punishment.

The procedure for applying sanctions to protect national (economic, political, state, etc.) interests often cannot have a judicial character, as it requires prompt and unconditional response to ensure national security. However, the urgency of such sanctions does not negate the principles of the rule of law and legality; rather, it affirms the implementation of these principles based on protecting national interests and achieving the necessary security level for sustainable societal development and human life.

A law on sanctions in national law should establish various sanctions depending on national interests, the protection of which is relevant, based on international legal practice. Primarily, the sanctions mechanism should act to protect the right to life, to defend the state from aggression, encroachment on sovereignty, territorial integrity, and inviolability. There is no hierarchy in establishing and applying sanctions to protect society from terrorist activities [3].

It is evident that establishing and utilizing a sanctions mechanism is a prerogative of state activity, indicating the sovereignty of the state in internal and external relations. The quality and effectiveness of such activity always demonstrate the state's ability to fulfill internal and external functions, ensure national security, and overall characterize the state as strong and capable of confronting existing threats.

References

1. Pro sanktsii: sanktsiinyi mekhanizm i natsionalna bezpeka. URL: <https://ukrainepravo.com/scientific-thought/naukova-dumka/pro-sanktsiyi-sanktsiynyy-mekhanizm-i-natsionalna-bezpeka/> (data zvernennia: 15.03.2024).
2. Ekonomichni efekty sanktsii yak instrumentu zovnishnoi polityky v konteksti dosiahnennia natsionalnoi bezpeky. URL: http://www.investplan.com.ua/pdf/19_2017/5.pdf (data zvernennia: 15.03.2024).
3. Ekonomichni sanktsii. URL: <https://censs.org/tag/%>. (data zvernennia: 15.03.2024).