

PHILOSOPHICAL AND LEGAL ESSENCE OF CONTROL IN TERMS OF ENSURING NATIONAL SECURITY

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Abstract: The main purpose of the study is to determine the philosophical and legal essence of control in terms of ensuring national security. In modern conditions, the rethinking of the fundamental philosophical and legal approaches to the interaction between the state and the individual, the citizen, and public mechanisms is of particular importance. Outdated ideological stereotypes associated with the dominance of the state and its interests in such interaction still prevail in the public philosophy of legal consciousness, which does not contribute to the modern understanding of the legal forms of state acts as a way to ensure the priority of human rights in the sphere of public power. In this regard, great importance is attached to the substantiation of new philosophical approaches to the assessment and formation of state activity. The most important type of such activity has traditionally been controlling and oversight, especially in the context of national security. As a result of the study, the main aspects of the philosophical and legal essence of control in terms of ensuring national security were identified.

Keywords: philosophy, control, human rights, philosophy of law, national security.

Introduction

Considering any social phenomenon or institution, we inevitably turn to its historical roots. It is thanks to the analysis of the history of ideas about legal phenomena that one can see that the developed modern concepts of law and the state are based on the centuries-old knowledge of philosophers and jurists. The ideas of control, its essence, and its purpose are reflected in the phil-

osophical and legal reflections of both ancient and modern thinkers. In this study, we will try to trace the thread of development of theoretical teachings on the role and place of state control in the system of public administration.

State control in the modern philosophical and legal doctrine is practically not considered in terms of its value and significance in the context of public administration, the possibility and expediency of replacing them with other adminis-

trative forms. We believe that these institutions can rightfully be attributed to the values of the public administration system; to a variety of national political and legal values that are the object of transmission from generation to generation within the framework of legal cultures, to the instrumental pillars of the administrative and legal regulation of the vast majority of spheres of public life (Flanagan & Hannikainen, 2020).

Their transformation in the context of the next stage of administrative reform requires, in our opinion, not only administrative and procedural support, which has recently been given due attention both at the level of scientific understanding and in the framework of improving legal regulation, but also philosophical and legal justification associated with determining the place and role of control as managerial forms in the general system of public administration, identifying their need, assessing the appropriateness of use.

Science, generating high technologies, becomes the main factor of productive growth in society and the knowledge economy. With the advent of the knowledge economy in the field of scientific activity, the market occupies a dominant position, presenting new requirements to the existing players of the knowledge society, regardless of whether they belong to the scientific, economic, or political spheres because it is they who will ensure the rapid and long-term development of the social system at the intersection of science, economics and politics. Turning to the interpretation of the concepts of society and the knowledge economy, as the context of philosophical and scientific understanding of management theory, we note that these concepts do not just mean strengthening or increasing the role of science in society; they fix the deepest changes in society itself, for which scientific knowledge and technologies become its essence. In this context, it becomes especially relevant to turn to management thought, the main trend of which is the desire to turn management into a science.

For most academic disciplines, there is a range of questions that characterize their ultimate foundations, called the philosophy of the corresponding science. Management, in this sense, is no exception, as it has reached a stage of maturity that requires a philosophical understanding of its own foundations. The term “management phi-

losophy” outlines a range of generalizing philosophical judgments about the subject and methods of management, the place of management among other sciences, and in the system of scientific knowledge as a whole, its cognitive and social role in modern society. In other words, the philosophy of management considers the axiological, epistemological, and methodological foundations of human activity in the process of management. It should be emphasized that management as a type of human practice has existed since the emergence of the need for joint, coordinated activities of people.

Such managerial activity in the very first and general approach can be defined as the actions of people joining efforts to implement common tasks and achieve a common goal. Each stage of the historical evolution of society offered its own rules for the relationship of subjects of management, as well as ways to organize the management process, the comprehension of which began with the appearance of the very first social theories, but only in the last hundred years ago, management turned into an independent scientific discipline in which a number of questions and problems there is no definitive and generally accepted interpretation (Dearey, 2002).

It seems to us that the theory of management can be defined as a logically ordered knowledge, which integrates the principles, methods, and technologies of management established based on the use of theoretical results of specific sciences and information obtained by experience. A specific feature of management lies in its interdisciplinary nature, as well as in the close interweaving of theoretical concepts and the constant focus on solving practical problems, which allows researchers to divide management knowledge into two levels: the first is the theory of social management, as part of general political, economic and socio-philosophical concepts and the second is an applied discipline that synthesizes fragments of scientific theories of such disciplines as mathematics, logic, psychology, as well as practical knowledge and skills in managing various objects.

Despite the abundance of definitions of the concept of “management”, it recognizes the presence of such components as an object, subject, goals, means, results, and conditions, and management is defined as a transformative and guiding activity that ensures the achievement of

the designated goal. In accordance with this definition, management can be interpreted as the process of the subject's influence on the object, aimed at streamlining and preserving or at destroying and changing the system of the object in accordance with a given goal. The problems of management in modern society are becoming relevant for philosophy in general and for social philosophy, especially because they study a special role in the life of both society and the individual. Modern society cannot develop without a management system, and effective management in the country has become the dominant factor (Collins & Lawford-Smith, 2021).

The philosophy of management, as a study of the fundamental foundations of managerial thought, is fundamentally different from the philosophy of the exact sciences. If, for example, the control of technical systems proceeds from the immutable laws of physics, chemistry, mechanics, biology, etc., then in socio-economic control systems, there is a person whose behaviour depends on his values, needs, worldview, and will, which are not amenable to accurate description and measurement. To this, it should be added that in the social world, there are no immutable laws, and the subject of study is constantly undergoing transformation. At the same time, the emerging contradictions between the principle of scientificity, rationality and the real behaviour of people pose serious methodological problems, thereby stimulating the development of management theory. In the process of resolving emerging methodological problems of management, the humanities and natural sciences are forced to cooperate.

Increased attention to the administrative and procedural aspects of state control in the context of administrative reform, rightly stating that outside the scope of the reform, there were issues of critical analysis of the need and (or) sufficiency of control activities in terms of protecting legally protected values; the possibility of replacing state control activities with others, including non-state institutions for the protection of legally protected values (Barry & Wissenburg, 2011).

Taking into account the fact that the category of "values protected by law" is actively and widely used in legislation and scientific research in the field of state control, it is necessary to consider and substantiate the philosophical and legal aspects of modern control activities of the state.

Otherwise, the activity of scientists, legislators, and law enforcers can be levelled by the lack of a conceptual philosophical and legal justification for state control.

The main methods of philosophical and legal justification of state control are horizontal and evolutionary methods. The first is to substantiate the control activities of the state from the point of view of the possibility of replacing state control with other mechanisms within the framework of deregulation processes and their varieties. The second method is based on taking into account the previous development of these management forms.

Methodology

The study determines the philosophical and legal essence of control in terms of ensuring national security based on basic concepts of ontology, axiology, public administration theory and projection, and the concepts of philosophy and sociology of law. The methodological base of the work is the modern merits of the theory of management, the philosophy of management and control, as well as the bases of state security. A complex of interrelated general scientific and special scientific methods was used, in particular, the dialectical method of analysis and the axiological method. The reliability and argumentation of scientific results were carried out on the basis of philosophical, general scientific, and special scientific methods, in particular, the interpretive-analytical method, with the help of which the following were carried out: hermeneutic and theoretical analysis, synthesis of philosophical, legal and pedagogical works, normative documents, textbooks with a generalization of theoretical and methodological basics.

Research Results and Discussions

While interpreting and substantiating the theory of control, it should be noted that its current state has been significantly influenced by the sciences of human behaviour: psychology, sociology, social psychology, and anthropology, since these sciences cannot consider the activities and behaviour of people outside of philosophy and cultural context. Philosophy contributes to deep

penetration into the understanding of the phenomenon of control, which takes root in a culture that renews the values and norms inherited from the past, passing them on to new generations. Scientific and rational understanding, as well as the practice of making managerial decisions, cannot be carried out without taking into account socio-cultural factors. In this regard, the most important task in the field of control is to identify those national cultural traditions that can and should be used in theoretical and methodological understanding and practical application in management. It is the ignorance of the peculiarities of world history and mentality that turns into difficulties in the formation of a market economy, social tragedies, and technical and technological disasters. And only models of control, built taking into account national specifics, can become effective and overcome the difficulties that arise. Turning to management issues, the philosophy of control sees the development of conceptual foundations for the formation of the model of control as the most important task since this task does not fit into the framework of one or more disciplines and requires not only interdisciplinary approaches but also a holistic philosophical reflection. It seems that a rationally and scientifically formulated national model of control can become not only a condition for effective control practice but also a long-term factor in uniting the country. Such a model should become a key link in the macro-control system and permeate its content, defining the rules of the game in all areas of control. Science and practice show that the effectiveness of any manager is determined by the three most important components: practical experience, theoretical knowledge, and the art of a leader (Winston, 1993).

Moreover, if experience and art are individual characteristics of each person, then the theory of control can and should be taught since special training will make the human activity more rational and efficient. It seems that today knowledge of the fundamentals of the theory and methodology of decision-making is necessary not only for those who are professionally associated with managerial activities but also for every person who faces the problem of choice every day. It is important to emphasize that control is a purposeful rational activity, and in modern science and philosophy, the concept of rationality has undergone a very serious transformation,

taking into account the stochastic nature of natural and social processes, the diversity of types of being, the presence of various connections and tendencies of self-organization. The philosophy and theory of control of the 21st century deny absolute certainty and mechanism, recognizing the variability of the prerequisites and norms of rationality, which forces the use of such grounds as ambiguity and uncertainty in assessing the situation and making managerial decisions. In modern life, organizational interactions are regulated by such ideological categories as the idea of the relationship between man and nature, the ideas of justice, good and evil, culture and tradition, which means that the basis of modern control is not only a complex of specialized disciplines that have applied significance but also a holistic philosophical and methodological approach, inscribed in the modern worldview (Poel, 2020).

In philosophical and legal approaches in relation to legal institutions and phenomena, broad and narrow approaches are distinguished. Within the framework of the first, law acts as the basic value of society at a certain stage of development. Thus, law, along with family, property, personality, freedom, spirituality, order, and statehood, is positioned as the cornerstone and fundamental value of civil society. The narrow philosophical and legal approach focuses on the values protected by legal institutions and processes (Machery, 2017).

Philosophical and legal aspects in relation to control activities also include two levels, which differ in the scale of the positioning of institutions of state control. The first (higher) level determines the value of the most controlled activities in the public administration system as a whole. Such value and, as a result, the significance of this activity is determined in comparison with other forms of providing legally protected values and means of achieving proper public administration (licensing, permitting system, self-regulation, etc.). Some authors see the value (axiology) of control in that it allows one to judge with a proper degree of certainty that the intended goal has been achieved, as well as in the fact that control allows one to make a decision promptly and correct the process of activity in cases of its deviation from the ideal (goal) (Erkal & Vandekerckhove, 2021).

The second, no less significant level involves

the allocation and definition of the content of the category “legally protected values” in the system of control. Protections of legally protected values, ensuring the necessary level of their safety, and preventing harm to them are the goals of state control.

It should be noted that both levels of philosophical and legal support of control are practically not studied in modern legal science in terms of ensuring national security.

Value is understood as the positive or negative significance of the objects of the surrounding world for a person, class, group, or society as a whole, determined not by their properties in them but by their involvement in the sphere of human life, interests and needs, and social relations. The value can be determined only when considering the object in the social aggregate, in relation to state control - in the context of the entire system of public administration, taking into account the numerous and complex relationships between its components. In other words, we are talking about assessing the significance of their use in the general system of measures and forms of state regulation, means of managerial influence on a certain area of social relations (Erkılıç, 2021).

The value of control in terms of ensuring national security is due to the ability to ensure the protection of legally protected values through minimal interference in the controlled activities of citizens and organizations and to establish the necessary level of restrictions on their rights and freedoms. Control as management forms are independent, but within the framework of this article, the presence of a number of criteria for their differentiation (primarily administrative and procedural) will be considered as components of one of the areas of state management activity - control. Otherwise, their value should also be delimited, and they themselves should be subject to comparative legal analysis from the standpoint of significance in the system of public administration.

Without going into a discussion about the distinction between state controls as a form of management activity, we recognize the fact that the ratio of control components in relation to a certain area of state regulation also depends on the potential for public authorities to ensure the protection of legally protected interests in a particular area of public relations. The specificity of the

latter determines the level of managerial influence, as well as the arsenal of tools and forms of such influence (Cholbi, 2022).

In this regard, we can talk about a certain philosophical and legal circle in relation to state control in terms of ensuring national security, which consists of the correlation of the value of control activities with the level of protection of legally protected values.

It should be recognized that the idea of replacing state control with alternative non-state (market) mechanisms lies in the plane of a possible reduction in the administrative burden on business associated with control activities by state authorities. The effectiveness of such measures, their impact on the level of risk of harm to citizens, the environment, and the safety of products and services offered is difficult to assess, while it is important to determine the position of controlled entities on this issue. According to a sociological survey of business community leaders, businesses do not support most of the proposed alternative mechanisms for controlling their activities. Most of the respondents consider it inappropriate to replace state control with “regular audits by non-state specialized organizations”, “ensuring the fulfilment of obligations (financial guarantees, third-party guarantees)”, and “introducing mandatory membership in self-regulatory organizations” (Dibben & Sheard, 2012, Leshchenko et al., 2021).

Less critical assessments are observed in relation to insurance and public control. The greatest preferences in terms of replacing state control are associated with self-control. Nevertheless, under certain conditions, the business is ready to consider all options. One of the main conditions is the absence of additional costs, which is especially important for individual entrepreneurs. It is interesting that business assessments regarding alternative mechanisms for replacing state control do not depend on the type of control (Manomano & Mundau, 2017).

Replacement (partial replacement) of state control seems possible in various areas of public activity: in the field of environmental relations, it is proposed to replace state control with an environmental audit.

Situations with the replacement of state control by other mechanisms in certain areas are not always positively characterized by specialists. Thus, attempts to eliminate state control in the

field of explosives, according to experts, are the right way to create conditions for mass accidents. At the same time, it is rightly noted that the replacement of state control with insurance schemes is designed to ensure the economic well-being of the owners of mining enterprises but is not capable of restoring the lives of the dead miners. Scientists also note that the abolition of licensing (replacing it with self-regulation) in the absence of adequate state regulators can lead to deterioration in the state of legality.

The cautious attitude toward the replacement of permissive state regulation with self-regulation is justified by the need for systemic state control over the activities of self-regulatory organizations. Recognizing the possibility and legitimacy of replacing permissive administrative regulation with institutions of philosophical and legal content, scientists insist that such institutions be able to prevent or at least minimize the negative consequences of hazardous activities (Novikov, 2016).

There are opinions that control agencies differ from supervisory agencies in the powers granted to them. However, the question arises: does the scope of these powers depend on subjective factors, or is it determined by some fundamental objective conditions? Control as a type of activity is aimed at identifying non-compliance by the controlled subject with the established rules for the implementation of controlled activities or non-fulfilment by the controlled subject of public relations assigned to his duties or non-compliance of the controlled object with the established requirements. So, in accordance with most by-laws of different countries of the world, state control is an inspection of the observance by the inspected entity of the mandatory requirements in the course of its activities, the mandatory requirements for goods (works, services) established by federal laws or regulatory legal acts adopted in accordance with them. A control measure is a set of actions of officials of state control agencies related to the verification of compliance with the mandatory requirements by the subject, the implementation of the necessary studies (tests), examinations, the registration of the results of the verification and the adoption of measures based on the results of control measures (Dobrolubova, 2016).

Thus, the objects of control are certain social relations related to the fulfilment of established

requirements (duties), rules, and conditions, in particular (Kraut, 2022):

- compliance with the rules established by law for the implementation of economic or other activities; observance by the subjects of certain duties assigned to them by law;
- compliance with the requirements of technical regulations for products and certain types of processes. The objects of verification during control may be: subjects, for example, an individual or an official, may be subjected to personal search or oral questioning; objects, for example, products, waste, and samples of the natural environment, can be subjected to inspection and research;
- public behaviour of individuals that can be observed; economic or other activities of legal entities or individual entrepreneurs, which can be studied by inspecting the territory and premises, accounting for products, checking the accounting and reporting system, appointing or conducting an audit of financial and economic activities;
- processes of production, operation, storage, transportation, sale, and disposal of products; documents and information; other objects provided by law.

Thus, the value of control in terms of ensuring national security, as well as other management mechanisms, is due to the ability to provide the values protected by law to the right extent. Verification of compliance with mandatory requirements should not be an end in itself for control and oversight agencies since if compliance with such requirements does not lead to the safety and protection of public goods, and causes damage to entrepreneurial activity, then such activity of the state does not make any sense.

Conclusion

Philosophical and legal approaches to control and supervisory activities imply two levels: the first is associated with the assessment of the control and supervisory activities in the system of other management forms; the second is with ensuring the protection of legally protected values with the help of state control.

Control as philosophical and legal forms can be considered in terms of their value, which should be understood as the significance of these

forms in the public administration system as a whole in the context of the possibility of using other management forms to achieve management goals. The possibility of replacing control with other regulatory mechanisms is considered a violation of mandatory requirements.

The effectiveness of replacing the control mechanisms of the state with others related to the delegation of state powers, self-regulation, co-regulation, and other manifestations of deregulation, institutions are primarily associated with the possibility of ensuring the necessary level of protection of values protected by law.

From the point of view of the philosophical and legal approach, the value of state control is due to the preliminary development of these management forms in the public administration system in terms of ensuring national security.

The current legislation refers to the values protected by law, first of all, life, health, morality, rights, and legitimate interests of people and organizations, animals, plants, the environment, the defence of the country, and the safety of the country, cultural heritage sites. The content of the list of values in different documents is somewhat different; it is based on basic constitutional values.

The list of legally protected values is a mobile system with an internal hierarchical structure. Legally protected values can be classified into constitutional and other values, as well as depending on the scope of regulation.

Taking into account the value orientations of control activities is very important and possible both at the stage of rule-making and in law enforcement practice. To a certain extent, taking into account the structure of values protected by law, the significance of an individual value or a set of values is possible within the framework of discretion as a natural property of law enforcement, as well as in the development of risk criteria in the implementation of control and supervisory activities, in the context of implementing the principles of state control, its varieties.

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