

## Artículo de investigación

# Distinctive features of administrative and legal support of national security in the usa and russia: conceptual foundations

Rasgos distintivos del apoyo administrativo y legal de la seguridad nacional en los Estados Unidos y Rusia: fundamentos conceptuales

Características distintivas do apoio administrativo e legal à segurança nacional nos EUA e na Rússia: fundamentos conceituais

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## Abstract

This article is devoted to a comparative analysis of the experience of strategic administrative and legal regulation and ensuring national security in the US and Russia. It is established and systematized the distinctive features of the Western (North American) and Eastern (Russian) approaches to the issues of strategic planning and development of policy documents in this area. It is defined common approaches to understanding national security in the US and Russia.

**Key words:** security, national security, concept, strategy, governance, national interests, threats to national interests, global challenges, strategic documents.

## Resumen

Este artículo está dedicado a un análisis comparativo de la experiencia de la regulación administrativa y legal estratégica y a garantizar la seguridad nacional en los EE. UU. Y Rusia. Se establecen y sistematizan las características distintivas de los enfoques occidental (norteamericano) y oriental (ruso) a los temas de planificación estratégica y desarrollo de documentos de políticas en esta área. Se definen enfoques comunes para entender la seguridad nacional en los EE. UU. Y Rusia.

**Palabras clave:** seguridad, seguridad nacional, concepto, estrategia, gobernabilidad, intereses nacionales, amenazas a los intereses nacionales, desafíos globales, documentos estratégicos.

## Resumo

Este artigo é dedicado a uma análise comparativa da experiência de regulamentação administrativa e legal estratégica e garantindo a segurança nacional nos EUA e na Rússia. Estabelece-se e sistematiza-se as características distintivas das abordagens ocidental (norte-americana) e oriental (russa) para as questões de planejamento estratégico e desenvolvimento de documentos de política nessa área. São definidas abordagens comuns para entender a segurança nacional nos EUA e na Rússia.

**Palavras-chave:** segurança, segurança nacional, conceito, estratégia, governança, interesses nacionais, ameaças aos interesses nacionais, desafios globais, documentos estratégicos.

## Introduction

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In the North American and Western European political consciousness, the notion of "security" stands in line with such categories as democracy and human rights and is perceived as an integral part of liberal consciousness. The origins of this tradition are enshrined in the English Bill of Rights of 1689, where the security is associated with the unity of the people's peace and evenness and the state's welfare (1); in the American Declaration of Independence of 1776, where the creation of security guarantees is proclaimed by the people's right and duty, and the provision of security and happiness to the people - by the state's task (2).

Moreover, the ideological concept of national security is a product of Western legal and political practice, where the formula of identity of the nation (population) and the state adopted in the US and Western European countries takes place. For example, all French citizens, regardless of origin, language and ethno-cultural characteristics, are French, and France itself is recognized as a monoethnic country in the French law. A similar situation of the identity of the nation and the state is also observed in the United States, whose citizen is any one, having an American passport and is no longer burdened by his/her original history, ethnic culture, or ancestral traditions. Accordingly, the notion of "national security" almost "absorbs" the category of "state security" in terms of its significance in the North American and Western European versions.

This conclusion is confirmed by the content of the US military doctrine, according to which all national resources should be used not only in the interests of defense, but also military expansion, to provide maximum support to the politics in ensuring national interests and achieving the US strategic goals, to win the war and its best political use, as well as to reduce the likelihood of failure (3). Thus, the concept of "national security" reveals the meaning of the national approach to security in the United States and Western European countries - their internal and external interests, strategic goals and objectives in terms of war and peace.

In Russia, the concept of national security first appeared only in the 90s of the XX century and was in fact borrowed from the North American and West European political traditions, since the concept of "state security" was earlier used in the

legal system and political practice of Soviet Russia.

A quarter of a century later, at the present time, the domestic legal system has developed its own national approach to the national security definition, consistent at the same time with the national security standards generally accepted in world practice, namely its understanding of "the security of the individual, society and the state from internal and external threats, which ensures the implementation of constitutional rights and freedoms of citizens of the Russian Federation, decent quality and standard of living, sovereignty, independence, state and territorial integrity, sustainable socio-economic development of the Russian Federation" (4).

Nevertheless, it is still relevant to compare the features of administrative and legal support of the national security issues in the North American and Russian political and legal traditions with the possibility of using positive experience of both countries in regulating these issues.

### Methodology

The methodological basis of our study is the general principles and methods of scientific knowledge related to the research apparatus of the humanities, which include general scientific approaches - systemic, sociological; the methods of analysis and synthesis, induction and deduction, abstraction and theoretical modeling, ascension from the abstract to the concrete, typological analysis, etc. An important role in the study is played by the method of comparative analysis, classification, comparative-legal, comparative-historical, as well as formal-legal methods.

### Discussion and results.

At first, it is logical to refer to the sources of the national security theory, which is common to both the US and Russia, since the Russian legal system has initially had a reception of this concept.

The very term of "national security" is quite "young". It was first used by the President T. Roosevelt in a message to the US Congress in 1904. The modern American model of national security is based on the methodological developments of the mid-XX century of the American political scientist G. Morgenthau,

where the national security is understood as the safety of citizens, society and the state (5).

The notion of "national security" is not used in the provisions of the US Constitution. At the same time, it stipulates "the right of the state to maintain troops or warships in peacetime, to conclude any agreements or contracts with another state or foreign power, or to run a war in case of invasion or such imminent danger, where any delay is inadmissible, without the Congress consent" (Section 10, Article I). In addition, the first amendment of the US Constitution states that "a well-organized people's volunteer corps are necessary for the security of a free state, and the people's right to store and bear arms should not be violated" (6).

The issues of ensuring US national security are the subject of the annual US President's message to Congress. Moreover, the US President's message to Congress dated December 2, 1823 proclaimed the first, relevant to the present, conceptual document in the field of ensuring national security of the United States - the Monroe Doctrine - which included the obligations of mutual non-interference of the United States and European countries in the internal affairs, the requirements for the combat readiness of the armed forces and their financing, and, in general, the national interests, whose protection was to ensure the security, prosperity and freedom of the American people as the country's mission at the present stage (7).

In the official documents, the notion of "national security" appears after World War II, when the first National Security Act of 1947 was adopted in the United States, where the national security was understood as the condition for the state's functioning, being the result of defense (protective) measures that increased the state's invulnerability in case of threats coming from outside or inside in an open and subversive form (8). In addition, this law fixed a permanent mechanism for the development and implementation of the national security policy, which has not undergone fundamental changes to date.

A characteristic feature of the national security strategic management in the United States is its doctrinal nature. In this state, the national security doctrine is a kind of intellectual product, a set of interrelated ideas in the field of real and predictable trend management, to

protect the constant interests of society and the state.

In general, the doctrinal vision of national security, which has been developing over more than 200 years in the United States, has the following structure:

- fundamental (permanent) national interests;
- ensuring the safety, prosperity and freedom of the American people;
- the relevant country's mission at this historical stage.

At present, the National Security Strategy, the National Defense Strategy and the National Military Strategy are the basic concept documents fixing the state policy foundations in the field of ensuring security and defense of the country in the United States (9).

The national security strategy is being developed by the US National Security Council, is designed for the highest level of state policy and to solve global problems. It reflects the state's interests and the directions of their implementation.

The latest active (updated) version of the National Security Strategy (NSS) was published by the administration of the US President Donald J. Trump on December 18, 2017 (10). As before, this document is devoted to the analysis of existing and potential challenges to the country's security, as well as ways to counter the existing threats.

The main leitmotif of this document was reflected in the US President's words: "The primary duty of our state to the people is to serve its interests, to ensure its security, to uphold its rights and to protect its values" (11).

The Strategy defines four vital national interests (the so-called "fundamental foundations"): protection of the country, the American people and the American way of life; development of the American welfare; peace preservation through the power; there are the main challenges and trends affecting the situation in the world, which include: revisionist powers (including China and Russia); regional dictators; terrorists from the jihadist organizations.

Another document is the National Defense Strategy, which was actively developed by the Ministry of Defense and the Committee of the Chiefs of Staff of the US Armed Forces in the field of ensuring national security of the United States.





This document defines the main tasks for the preparation of the country and the armed forces for war, as well as outlines some views on possible ways of its conduct. The strategy is formed on the basis of a number of basic provisions, including an assessment of the situation in the world, the strengths and weaknesses of the American state, the available political, economic and other security and defense capabilities, as well as the nature of US threats for the next decade.

The modern version of the National Defense Strategy (NDS), a concept document of the Ministry of Defense, was published in the form of an unclassified summary on January 19, 2018. In this document, the main mission of the US Armed Forces is the combat readiness maintenance at a level that allows "restraining the war and protecting the national security" (12). Based on this document, the Pentagon will develop and adopt secret directives, which form the basis for the using the military force by the United States.

The national military strategy is approved by the Minister of Defense. It defines the goals and requirements of the armed forces to personnel, armament, military equipment and inventories.

The positive quality of the US strategic documents in the field of ensuring national security is their:

- flexibility, which allows quickly taking into account all changes in the military-political situation;
- continuity, which is revealed in the preservation of the provisions of previous concepts;
- predictability, attention not only to real, but also potential threats.

The formation of Russian conceptual documents in the field of administrative and legal support of national security is significantly influenced by the so-called "eastern" model of strategic planning. This model is characterized by the fact that the key actors in the development and selection of military and political strategies are the head of state and the party elite, and in its specification - the national council (this is the Security Council of the Russian Federation in Russia) and the government.

The "policy documents," which form the regulatory and legal basis for ensuring national security in the Russian Federation - the strategies, concepts, doctrines, - represent a

system of views officially accepted in the state and therefore are of an institutional nature. These documents include the National Security Strategy of the Russian Federation (approved by the Decree of the President of the Russian Federation No. 537 dated December 31, 2015); the Anti-Terrorism Concept of the Russian Federation (approved by the Decree of the President of the Russian Federation No. 683 dated May 12, 2009); the Military Doctrine of the Russian Federation (approved by the Decree of the President of the Russian Federation No. Pr-29760 dated December 25, 2014) and others.

It is noteworthy that the National Security Strategy should be updated every six years in accordance with the Federal Law "On Strategic Planning in the Russian Federation", that is, the next revision of the National Security Strategy of the Russian Federation should appear by the end of 2021.

The current version of the National Security Strategy of the Russian Federation of 2015 is the basic long-term planning document. It defines the national interests, goals, tasks of Russia in the field of domestic and foreign policy, formulates the strategic national priorities of the state at the present stage and measures to ensure national security of our country. It outlines the tasks that will be relevant for the long term, as well as measures designed to consolidate the efforts of state authorities, local government and civil society to achieve the strategic goals of the country's development and to ensure its national security.

This document consists of six sections and uses the following basic concepts: national security of the Russian Federation, national interests of the Russian Federation, threat to national security, provision of national security, Russia's strategic national priorities, and the national security provision system (Article 6).

It is important to note that the Strategy of 2015 provides new opportunities for the development of the theory of Russia's national security and its categorical homogeneity. In particular, its text includes some clarifications and corrections, the already formalized definitions are supplemented with the new ones, and the types of national security of the Russian Federation are generalized.

The positive features of the Russian model are:

- an efficiency in the strategic planning organization;
- basing strategies on the traditional spiritual and national foundations.

We consider that the disadvantages of this approach, under certain conditions, include the dependence of the document content on the party attitudes, personal qualities of the country's leader, and certain inertia in responding to changes in the surrounding world.

At the same time, there are different traditions and culture of strategic regulation in the modern world, but the above trends in the Western and Eastern strategic planning models will steadily approach, converge and influence on each other under the influence of globalization processes on the scale and complexity of the tasks being solved in the process of ensuring national security by the individual countries.

### Conclusions

As a result of analyzing the problems of ensuring national security in the US and Russia, we can make the following conclusions:

Firstly, the issues of national security are priority and vital for the modern states. Therefore, their heads make significant efforts to ensure the sovereignty and integrity of the military, economic and political systems.

Secondly, the activities of states related to ensuring national security, protection from internal and external threats, are carried out in accordance with the strategic documents in this field, developed in accordance with the peculiarities of historical development and priorities established in such a state.

Thirdly, there is an emphasis on military power as the main mean of ensuring national interests in the foreign policy of the United States, Russia and other countries in the modern period; in fact, national security is identified with the military security, which, we believe, is a deviation from the democracy ideals based on the recognition of the individual, society and the state not only as the security objects, but also as the security subjects.

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