

# ACTIVITIES OF THE MINISTRY OF DEFENSE IN UKRAINE AND MILITARY ADMINISTRATION DURING THE SPECIAL PERIOD

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## ABSTRACT

*The article deals with the activity features of the Ministry of Defense in Ukraine and military-civilian administration during a special period. It is revealed that the Ministry of Defense of Ukraine, as the central executive body, together with the military-civilian administrations, created instead of regional councils, facilitate the realization of civil-military cooperation. However, the authority of the Ministry of Defense of Ukraine covers a number of other rights and responsibilities, including the formulation of state policy, the organization of defense planning and the effective defense resources management. After completing the study, we came to the conclusion that it is advisable to strengthen the cooperation between the Ministry of Defense of Ukraine and the Ministry of Ecology and Natural Resources of Ukraine on protection of territories, where hostilities take place. Furthermore, the content of national legislation acts also points out that civil-military administrations have sufficient authority to counteract crime in the state's territory, during a special period. It was concluded, that in order to improve the activities of civil-military administrations in a special period, it is necessary to resolve the situation where the military-civilian administrations and the regional council are existing simultaneously.*

**Keywords:** Defense, Security, National Security, Special Period, Civil-Military Administrations, Ministry of Defense of Ukraine, Military Command.

## INTRODUCTION

The conflict in the east of Ukraine significantly hinders the development of both a democratic and a constitutional state, moreover, it destabilizes the financial and economic situation in the country. We should agree with R. Atadjanov, who states that despite the fact that the armed conflict in Ukraine has become a "frozen zone", the reality demonstrates some other facts: the fighting continues and the number of human rights mass violations cases are increasing as a result of the usage of armed forces by the aggressor state and its involvement into the

conflict in eastern Ukraine. According to several reports, these violations are, in many cases, war crimes (Atadjanov, 2018).

### **Formulation of the Problem**

Due to the fact that, the armed conflict has been going on for more than five years, we can make a clear conclusion about the inability of the existing state institutions to manage the territory and minimize consequences from the war for the population. Thus, it is urgent to study the specific authorities of the Ministry of Defense of Ukraine and military-civilian administrations in the context of armed conflict in eastern Ukraine and to search for improving directions.

### **LITERATURE RIVIEW**

Kemp and Lyubashenko also point out that in recent years, scientists have paid essential attention to the specifics study of the military conflicts and affirmed that the situation in Ukraine is actually quite complex (Kemp & Lyubashenko, 2018). Moreover, the predominance of works devoted to the study of military-civilian cooperation is essential in scientific doctrine. Komisarov et al. emphasize that the aim of units of military-civilian administrations in Ukraine is to organize cooperation between local authorities, international and non-governmental organizations, civilians. Thus, it can be concluded that these units play an important role in organizing the interaction of the Anti-Terrorist Center of Ukraine with the civilian sector in the area of anti-terrorist operation. However, as scientists point out, not all parts of Lugansk and Donetsk regions have military-civilian administrations (Komisarov et al., 2018).

Grigorov also emphasizes that the main goal of the military-civilian administration units is to organize cooperation with civilians, local authorities, and other military formations that exist and operate on a permanent or temporary basis in a designated area, governmental or non-governmental organizations. communities in a disaster or conflict area. Moreover, the scientist point out that civil-military cooperation is a new concept used to describe the activities and relations between the military and civilians. It exists as the result of a gradual complication of the environment in which hostilities took place. There are different cases where the military has to perform tasks that are not military in nature. This gives even greater importance to civil-military relations (Grigorov, 2017). Thus, the key issue of political organization of the state and the nation is the relationship between the state, society and the armed forces (Thomas & Aurel, 2019).

According to Parera Laura-Anca, civil-military cooperation is a complex concept that includes several aspects related to the interaction between civilian and military subjects. In academic literature, civil-military cooperation is based on approaches that include the interaction of the political elite, military, and citizens, paying special attention to the following elements:

1. The level of civilian control of the military;
2. The degree of the military professionalism;
3. The cooperation of civilians and the military in peacetime and in hostilities;
4. Compatibility/divergence of their aims (Parera, 2013).

## METHODOLOGY

The study of the features of the Ministry of Defense of Ukraine and military-civil administrations in the context of armed conflict was carried out using the dogmatic, comparative-legal and system-structural methods. Thus, the dogmatic method discloses common approaches to understanding armed conflict. The study of the specific powers of the Ministry of Defense of Ukraine and military-civilian administrations in the context of armed conflict in eastern Ukraine, led to the emergence of a comparative legal method. The system-structural method was used to analyze the latest scientific publications devoted to the study of the activity peculiarities of the Ministry of Defense of Ukraine and military-civilian administrations, as well as to summarize and present the results of the study.

## FINDINGS AND DISCUSSIONS

It is advisable to pay particular attention to the doctrinal and legislative understanding of the concept of "*armed conflict*", in the features study of the Ministry of Defense of Ukraine and military-civilian administrations in the context of armed conflict in the east of the country. Thus, the Geneva Conventions of 12 August 1949 and Protocol I do not give a sound definition of the concept "*armed conflict*", but point out that armed conflict is an important condition for the implementation of international humanitarian law. Indeed, Article 2 restricts the Geneva Convention scope only to conflicts in which one or more countries use the armed forces against others. The interpretation to the Geneva Convention states that the intervention of the armed forces of one State into another is an armed conflict, even if the other State denies the fact of military status. The International Criminal Tribunal holds the same position (Laws, 2010).

In 2015, when the conflict in eastern Ukraine has already existed, a National Security Strategy was adopted. Among the main directions of the national security policy of Ukraine was the creation of an effective defense and security sector, incensement of the defense capability of the state, including by eliminating duplication of the Ministry of Defense of Ukraine functions and the General Staff of the Armed Forces of Ukraine, as well as introduction of a centralized leadership of the state defense (The Legislation of Ukraine, 2015).

According to the Regulation on the Ministry of Defense of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine dated December 26, 2014, № 671, the Ministry of Defense is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy on national security in the military, defense and defense spheres. military construction in peacetime and a special period (The Legislation of Ukraine, 2014). Considering that the implementation of the military policy in 2018 in Ukraine was carried out under the conditions of an anti-terrorist operation, and then-the operations of the United Forces and the legal regime of military status. This status was introduced by the Resolution of the President of Ukraine on November 26, 2018 for a period of 30 days in ten regions of Ukraine and inland waters of the Azov-Kerch waters. Because of this, the Ministry of Defense of Ukraine has undergone a major transformation. In particular, in 2018, the division of powers began between the Ministry of Defense of Ukraine, which was given the opportunity to perform functions of public policy, organization of defense planning and effective management of resources in the defense sphere, and the General Staff of the Armed Forces of Ukraine (Ministry of Defense of Ukraine, 2018).

Moreover, it should also be noted that the Minister of Defense of Ukraine is responsible for the management of the Armed Forces of Ukraine, military command and control, including the command of all forces deployed for military operations in the territory of Ukraine. The Minister of Defense is elected by the President of Ukraine and approved by the Verkhovna Rada of Ukraine by a majority of votes. The President of Ukraine is also capable of demission the Minister in agreement with Parliament. Thus, in order to ensure strong civil control, Oliker et al. propose to make the Minister civil. However, if a person assigned to this position has military experience, scientists recommend making him or her to leave military service at least ten years before serving in the Ministry of Defense of Ukraine (Oliker et al., 2016). However, it is difficult to agree with this, since in the context of armed conflict in the east of Ukraine to manage the military command of the state has a person who has the relevant knowledge and skills, which without experience in military structures is quite difficult or even impossible to acquire. That is why it is advisable to look for other ways to strengthen civilian control over military command.

It should be also mentioned, that the authority of the Ministry of Defense of Ukraine in the context of armed conflict in eastern Ukraine, should not only be limited to the management of military command, but also to social policy issues, in particular the protection of the military personnel rights, as well as environmental issues. As the loss of state control over part of the Ukrainian territory led to the destruction of a large part of the protected areas, including in the steppes. The major reason was the incensement of military maneuvers in such territories. However, Vasyliuk et al. note that effective cooperation on ensuring environmental security during hostilities has not been initiated between the Ministry of Defense of Ukraine and the Ministry of Ecology and Natural Resources of Ukraine. At the same time, the importance of such cooperation is explained by the fact that this is one of NATO's standards that the Armed Forces of Ukraine should strive for (Vasyliuk et al., 2017).

Voronov points out that the state of the military conflict in Ukraine requires urgent decisions. According to these requirements, a network of civil-military administrations was created (Voronov, 2018).

According to the current legislation of Ukraine, civil-military administrations are temporary state institutions in villages, settlements, cities and regions operating within the Anti-Terrorist Center under the Security Service of Ukraine (if they are formed to carry out the powers of the relevant bodies in the area of conducting an anti-terrorist operation) or as part of the Joint Operational Staff of the Armed Forces of Ukraine (if they are formed to carry out the powers of the relevant authorities in the area, take national security measures and defense, as well as inhibition of the Russian Federation's aggression in Donetsk and Luhansk regions). They are intended to ensure the operation of the Constitution and laws of Ukraine, ensure the safety and normalization of the population's life, law and order, participation in counteracting acts of armed aggression, terrorist acts, preventing a humanitarian catastrophe in the area of countering armed aggression of the Russian Federation, in particular, conducting anti-terrorist operations (Law of Ukraine, 2015). This peculiarity of military-civilian administrations organizational construction, which combines elements of simultaneously two independent systems of government, namely state and local, makes their functioning controversial and complex.

The Law of Ukraine "*On Combating Terrorism*" (Article 5) stated that civil-military administrations have the authority to organize the verification of individuals documents and, if necessary, to inspect things, vehicles, luggage, office space and housing citizens, except for the restrictions established by the Constitution of Ukraine (The Law of Ukraine, 2003). The

aforementioned authority indicates that military-civilian administrations are also subjects of the fight and combat against crime, which in particular cases in the country can become significant. Therefore, such a right corresponds to the current conditions of state development, which is also confirmed by the opinion of Burbyka et al. according to which the activities of different entities need consolidation in the field of combating crime (Burbyka et al., 2016). Also, Kulish et al. point out that the situation is complicated by the high level of corruption in almost all spheres of public life and public administration (Kulish et al., 2018).

Some disadvantages are inherent in the activities of civil-military administrations in Ukraine, since in Part 3 of Art. 3 of the Law of Ukraine "*On Civil-Military Administrations*" points out that regional military-civilian administrations are formed in case when the session is not convened accordingly by the regional council within the terms set by the Law of Ukraine "*On Local Self-Government in Ukraine*" or in order to provide effective management in the area of public security (Law of Ukraine, 2015). However, if we pay attention to the list of civil-military administrations in Ukraine, we will notice that there is a situation in which there is simultaneous existence of military-civilian administrations and regional councils, etc.

Obviously, this is a significant drawback, since it complicates case management in the respective territories due to problems in the separation of powers between two particular institutions simultaneously-the military-civil administration and the regional council. If we mention the similarity of powers, we should point out the fact that the legislation of Ukraine empowers not only military-civilian administrations with authority to facilitate interaction between military and civilian populations, but also the Ministry of Defense of Ukraine, especially to ensure the relationship of the Armed Forces of Ukraine with state bodies and citizens. Thus, it is obvious that there are still ways of influencing the activity of these two structures, but in any case, their activity is aimed at improving the interaction of military personnel, state authorities, local self-government bodies, other entities in order to fulfill their major tasks in areas where the armed conflict takes place.

## RECCOMENDATIONS

The analysis of the scientific doctrine provisions, the modern normative acts of Ukraine, as well as the current situation in the east of the state undoubtedly evidence about the essential role of the Ministry of Defense of Ukraine and military-civil administrations in the mechanism of security and defense of the state as a whole. It is, also advisable to pay attention to the status of the Minister of Defense, in particular to determine whether he is civil or military subject. In addition, special attention should be paid to the authorities of the Ministry of Defense of Ukraine related to the management of the state's military forces, namely taking measures to protect the territories where hostilities, military exercises, testing of military equipment are taking place. It is also necessary to ensure the activities of only one institution, the military-civil administrations or the regional council, as, nowadays; there is a situation in which there are two acting structures at the same time.

## CONCLUSIONS

The armed conflict in eastern Ukraine has a negative impact on the political and socio-economic situation in the country. In order to counteract properly, all the complexities caused by the armed conflict, in addition to the Ministry of Defense of Ukraine in the field of defense,

certain powers have been given to civil-military administrations, whose main task is to establish cooperation between the military and the civilian population. At the same time, both the activities of the Ministry of Defense of Ukraine and military-civilian administrations have certain peculiarities. Furthermore, the issue of the Minister of Defense of Ukraine status needs to be resolved, since it remains controversial whether it should be civil or military. With regard to civil-military administrations, the situation with the simultaneous existence of both civilian-military administrations and regional councils must be resolved, as it hinders the proper implementation of the authorities conferred on the military-civilian administrations.

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