

**Сергій Вікторович Бєлай**

*Кафедра військово-соціального та психологічного забезпечення  
Національна академія Національної гвардії України  
Харків, Україна*

**Олександр Федорович Кобзар**

*Кафедра забезпечення державної безпеки  
Київський факультет Національної академії Національної гвардії України  
Київ, Україна*

**Ігор Володимирович Євтушенко**

*Кафедра тактико-спеціальної, вогневої та спеціальної фізичної підготовки  
Інститут підготовки юридичних кадрів для Служби безпеки України  
Національний юридичний університет імені Ярослава Мудрого  
Харків, Україна*

**Василь Корнієнко**

*Кафедра криміналістики, судової експертології та домедичної підготовки  
Харківський національний університет внутрішніх справ  
Харків, Україна*

**Олександр Васильович Коба**

*Кафедра службово-бойового застосування підрозділів Національної гвардії України  
Київський факультет Національної академії Національної гвардії України  
Київ, Україна*

## **ПРАВОВЕ РЕГУЛЮВАННЯ СЛУЖБОВОЇ ТА БОЙОВОЇ ДІЯЛЬНОСТІ У СФЕРІ БЕЗПЕКИ ТА ОБОРОНИ УКРАЇНИ У КРИЗОВИХ СИТУАЦІЯХ**

**Анотація.** У статті зазначається, що нинішня ситуація в Україні свідчить про потребу нового розвитку теорії військової діяльності правоохоронних органів в умовах врегулювання збройного протистояння в окремих районах Донецької та Луганської областей. Тому на перший план висуваються питання нормативно-правового забезпечення правоохоронних органів у реагуванні на кризові ситуації. Аналіз нормативно-правових актів показує, що правові норми недостатньо чітко сформульовані та неоднозначно трактуються правоохоронними органами. Тому необхідно вдосконалити законодавчий механізм запобігання та реагування на кризові ситуації, що загрожують національній безпеці України. Метою дослідження є всебічне розкриття сутності та особливостей правового регулювання бойових операцій у сфері безпеки та оборони України в кризових ситуаціях та розробка конкретних практичних рекомендацій, науково обґрунтованих пропозицій щодо вдосконалення державного управління у цій галузі. З метою вивчення передового досвіду України щодо функціонування державних механізмів реагування у сфері безпеки та оборони України на кризові ситуації під час Антитерористичної операції та Операції об'єднаних сил у деяких районах Донецької та Луганської областей, було проведено опитування експертів з питань антитерористичної безпеки. Результати опитування дали можливість визначити основні проблемні питання у функціонуванні системи антитерористичної безпеки та надати відповідні пропозиції щодо розвитку. Сьогодні державні органи влади повинні зосередитись на вдосконаленні організації управління, налагодженні міжвідомчого співробітництва між державними органами, підвищенні рівня попередньої підготовки персоналу, чіткому визначенні завдань правоохоронних підрозділів під час проведення спеціальних операцій. Напрямки подальших досліджень будуть спрямовані на розробку державних механізмів реагування компонентів сектору безпеки та оборони України на кризові ситуації

**Ключові слова:** теорія військової діяльності, система антитерористичної безпеки, державне управління, правоохоронні органи, національна безпека

**Serhii V. Bielai**

*Department of Military-Social and Psychological Support  
National Academy of the National Guard of Ukraine  
Kharkiv, Ukraine*

**Oleksandr F. Kobzar**

*Department of State Security  
Kyiv Faculty  
National Academy of the National Guard of Ukraine  
Kyiv, Ukraine*

**Ihor V. Yevtushenko**

*Department of Tactics-Special, Fire and Special Physical Training  
Juridical Personnel Training Institute for the Security Service of Ukraine  
Yaroslav Mudryi National Law University  
Kharkiv, Ukraine*

**Vasyl Korniienko**

*Department of Criminalistics, Forensic Expertise and Pre-Medical Training  
Kharkiv National University of Internal Affairs  
Kharkiv, Ukraine*

**Oleksandr V. Koba**

*Department of Service and Combat Application of Units of the National Guard of Ukraine  
Kyiv Faculty  
National Academy of the National Guard of Ukraine  
Kyiv, Ukraine*

## **THE LEGAL REGULATION OF SERVICE AND COMBAT ACTIVITIES OF THE SECURITY AND DEFENSE SECTOR OF UKRAINE IN CRISIS SITUATIONS**

**Abstract.** *The article states that nowadays situations in Ukraine shows that the theory of military activity of law enforcement forces needs a new development in the terms of settlement of armed confrontation in separate areas of Donetsk and Luhansk areas. Therefore, the issues of regulatory and legal support of law enforcement agencies in responding to crisis situations come to the fore. The analysis of normative legal acts shows that legal norms are not formulated clearly enough and ambiguously interpreted by law enforcement agencies. Therefore, it is necessary to refine the legislative mechanism for preventing and responding to crisis situations that threaten the national security of Ukraine. Therefore, the purpose of the research is to comprehensively reveal the essence and features of the legal regulations of combat operations of the security and defense sector of Ukraine in crisis situations and to develop specific practical recommendations, scientifically sound proposals for improving State governance in this field. In order to research the best practices of Ukraine on the functioning of Public mechanisms of response of the security and defense sector of Ukraine to crisis situations during the Anti-Terrorist Operation and the Joint Forces Operation in some districts of Donetsk and Luhansk regions, an expert survey of anti-terrorist security experts was conducted. The results of the survey provided an opportunity to identify the main problematic issues in the functioning of the anti-terrorist security system and provide appropriate development proposals. The State authorities today need to focus on improving the organization of management, establishing interagency cooperation between government agencies, increasing the level of pre-training of personnel, a clear definition of tasks for law enforcement units during special operations. Areas of further research will be aimed at developing State mechanisms of responding by the components of the security and defense sector of Ukraine to crisis situations*

**Keywords:** *theory of military activity, anti-terrorist security system, state governance, law enforcement agencies, national security*

## INTRODUCTION

The difficult socio-economic, socio-political and military situation that has developed today in the regions of the State directly affects the level of national security of Ukraine. Carrying out an Anti-Terrorist Operation (ATO) in some districts of Donetsk and Luhansk regions has a catastrophic impact on the level and quality of life of the population, as well as on the territorial integrity of the State. Statistics of the most serious criminal offenses in 2013-2019 compiled by the General Prosecutor's Office of Ukraine<sup>1</sup> is a real confirmation of the existing threats. The increasing in the numbers of registered crimes in the main indicators of the sections such as like: Crimes against the foundations of national security, Crimes against public safety, Crimes against public order and morality most thoroughly proves the likelihood of threats resulting from crisis situations of socio-economic origin. Another group of indicators in the sections: Crimes in the service of official activity and professional activity, use of public services, Crimes in the field of economic activity and Crimes against property currently determines the existence of crisis situations in Ukrainian society. The emergence of crisis situations is an acute problem of national security and requires the Government to make timely, adequate and effective management decisions and comprehensive solutions with the participation of various departments and authorities in ensuring law and order, protecting the interests of the State and citizens, eliminating serious consequences [1]. In addition, the Decision of the National Security and Defense Council of Ukraine of September 14, 2020 "On the National Security Strategy of Ukraine", approved by the Decree of the President of Ukraine No. No.392/2020<sup>2</sup>, prioritizes national security and centralized management of the security and defense sector in peacetime, in crisis situations that threaten national security, and in a special period, interagency coordination and interaction.

In the literature of recent years, some issues of service and combat activities of law enforcement forces in terms of the regulatory framework of crisis response were considered by scientists: O.M. Bandurka and O.M. Litvinov [2], O.V. Barabash [3], O.F. Dolzhenkov and R.V. Tarasenko [4], Y.V. Dubko and S.A. Butkevich [5], M.V. Kornienko [6], S.O. Kuznichenko [7], V.A. Lipkan [8], O.V. Pletnev [9], D.O. Savochkina [10], M.P. Strelbytsky and M.L. Pogrebytsky [11], V.A. Syagrovets [12], H.P. Yarmaki [13] and others. Scholars have made a significant contribution to the research of the problems of service and combat activities of law enforcement in crisis situations; however, in their work only some issues of crisis response and the interaction

of law enforcement in these circumstances were studied. Thus, a comprehensive research of the legal regulation of combat operations of the components of the security and defense sector of Ukraine in crisis situations from the standpoint of State governance was not conducted, which is led to the choice of this topic and its relevance.

According to the generally accepted opinion among scientists of the security and defense sector, military service is a type of law enforcement activity that is inherent in military formations and law enforcement agencies of the special sector of security and defense and is implemented by performing law enforcement tasks mainly through law enforcement methods and in the case of aggravation on the situation – also by military, i.e., combat methods [14; 15]. Currently, there is a situation in Ukraine that the theory of military activity of law enforcement forces needs a new development in the context of the settlement of armed conflict. Regulatory issues come to the fore and are an integral part of the strategic and tactical principles of law enforcement. The laws and regulations are basis of legal regulation of service and combat activities in crisis situations. By-laws supplement the laws, which promptly eliminate the shortcomings of the legislation.

Therefore, the purpose of the research is to comprehensively reveal the essence and features of the legal regulations of combat operations of the security and defense sector of Ukraine in crisis situations and to develop specific practical recommendations, scientifically sound proposals for improving State governance in this field.

## 1. THEORETICAL OVERVIEW

Separately in this system there are some regulations of special governing bodies existed, which are created if necessary, in special conditions, such as emergency commissions, operational headquarters and so on. The Constitution is fundamental to all national legislation. It enshrines the principles that are being developed in laws and regulations. Article 17 of the Constitution of Ukraine<sup>3</sup> enshrines the principles of social security, namely that "the protection of the sovereignty and territorial integrity of Ukraine, ensuring economic and information security are the most important functions of the State, the business of the entire Ukrainian people". A special role in the legal regulation of Ukraine is given to international regulations that have been ratified by Ukraine. Article 9 of the Constitution of Ukraine stipulates that valid international treaties, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine. The conclusion of

1. General Prosecutor's Office of Ukraine: Unified reports on criminal offenses for 2014-2019. (2020). Retrieved from <http://www.gp.gov.ua/ua/stat.html>.

2. Decree of the President of Ukraine No. 392/2020 "On the decision of the National Security and Defense Council of Ukraine of September 14, 2020 "On the National Security Strategy of Ukraine". (2020, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/392/2020#Text>.

3. Constitution of Ukraine. (1996). Retrieved from <http://zakon2.rada.gov.ua/laws/show/254к/96-вп>.

international agreements that contradict the Constitution of Ukraine is possible only after the relevant amendments to the Constitution of Ukraine. These principles are also enshrined in the Law of Ukraine “On International Treaties of Ukraine” of 29.06.2004 No. 1906-IV<sup>1</sup>.

Analyzing the activities of law enforcement forces, we can build the following hierarchical system of regulations on their legal force:

- Constitution of Ukraine;
- International legal acts ratified by Ukraine;
- Constitutional laws of Ukraine;
- Codes and laws of Ukraine;
- Resolutions of the Verkhovna Rada of Ukraine;
- Decrees and orders of the President of Ukraine;
- Resolutions of the Cabinet of Ministers of Ukraine;
- Interdepartmental interbranch regulations, departmental and interdepartmental regulations;
- Regulations of local state administrations;
- Normative acts of local self-government bodies.

A significant part of Ukraine’s legal acts is devoted to security (preventive) measures aimed to prevent the escalation of armed conflict within the State. The Article 37 of the Constitution of Ukraine<sup>2</sup> defines the conditions under which the activities of political parties and public organizations are prohibited in order to prevent armed conflicts such as formation and activity of political parties and public organizations whose program goals or actions are aimed at system of violence, violation of the sovereignty and territorial integrity of the State, undermining its security, illegal seizure of state power, propaganda of war, violence, incitement of interethnic, racial, religious hatred, encroachment on human rights and freedoms, public health, are prohibited.

According to the Article 85 of the Constitution of Ukraine<sup>3</sup>, the powers of the Verkhovna Rada of Ukraine in the field of internal armed conflict include: paragraph 9 about declaration of war and peace by the President of Ukraine, approval of the decision of the President of Ukraine on the use of the Armed Forces of Ukraine and other military formations. Armed aggression against Ukraine; paragraph 31 about approval within two days from the date of the President of Ukraine decrees on the imposition of martial law or state of emergency in Ukraine or in certain localities, on general

or partial mobilization, on declaring certain areas as an ecological emergency zones.

The Article 106 of the Constitution of Ukraine<sup>4</sup> states the provisions on the activities of the President of Ukraine in the field of settlement of internal armed conflict: paragraph 1 states ensures State independence, national security and succession of the State; paragraph 17 states the Supreme Commander-in-Chief of the Armed Forces of Ukraine, exercises leadership in the spheres of national security and defense of the State; paragraph 18 states heads the National Security and Defense Council; paragraph 19 states submits to the Verkhovna Rada of Ukraine a motion to declare a state of war and decides on the use of the Armed Forces of Ukraine in the event of armed aggression against Ukraine; paragraph 20 states decides in accordance with the law on the general or partial mobilization and imposition of martial law in Ukraine or in certain localities in the event of a threat of attack, the danger of State independence of Ukraine.

Article 107 of the Constitution of Ukraine<sup>5</sup> defines the status of the National Security and Defense Council of Ukraine as the coordinating body for national security and defense under the President of Ukraine. The competencies and functions of the National Security and Defense Council of Ukraine are determined by the Laws of Ukraine “On National Security of Ukraine”<sup>6</sup> and “On the National Security and Defense Council of Ukraine”<sup>7</sup>.

## 2. MATERIALS AND METHODS

Many legal acts are devoted to crisis response. They are directly enshrined in the “primary” domestic laws and regulations that define the tasks, structure, rights, responsibilities and other issues of law enforcement. Measures taken in the settlement of armed conflicts under these regulations should be carried out within the limits required by the current situation. They must meet the requirements of international regulations ratified by Ukraine. These are acts that interpret the basic rules of international humanitarian law, which is codified in:

- The Hague Conventions and Declarations of 1899<sup>8</sup> and 1907<sup>9</sup>;
- Geneva Conventions for the Protection of Victims of War of 1949<sup>10</sup> and their Additional Protocols of 1977<sup>11</sup>;

1. Law of Ukraine No. 1906-IV “On International Treaties of Ukraine”. (2004, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/1906-15#Text>.

2. Constitution of Ukraine. (1996). Retrieved from <http://zakon2.rada.gov.ua/laws/show/254k/96-bp>.

3. *Ibidem*, 1996.

4. *Ibidem*, 1996.

5. *Ibidem*, 1996.

6. Law of Ukraine No. 2469-VIII “On National Security of Ukraine”. (2018, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

7. Law of Ukraine No. 183/98-BP “On the National Security and Defense Council of Ukraine”. (1998, March). <https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text>.

8. First Hague Conference (1899, July). Retrieved from [https://avalon.law.yale.edu/subject\\_menus/lawwar.asp](https://avalon.law.yale.edu/subject_menus/lawwar.asp).

9. Second Hague Conference (1907, October). Retrieved from [https://avalon.law.yale.edu/subject\\_menus/lawwar.asp](https://avalon.law.yale.edu/subject_menus/lawwar.asp).

10. Geneva Conventions for the Protection of Victims of War. (1949, August). Retrieved from <https://www.icrc.org/en/doc/resources/documents/publication/p0173.htm>.

11. Additional Protocols to the Geneva Conventions of 1949. (1977, June). Retrieved from <https://www.icrc.org/en/document/additional-protocols-geneva-conventions-1949-factsheet>.

- The resolutions of the UN General Assembly<sup>1</sup>, etc.;
- International acts also enshrine the legal status of the individual, rights and freedoms that cannot be restricted in emergency situations, namely: Universal Declaration of Human Rights<sup>2</sup>; International Covenant on Civil and Political Rights<sup>3</sup>; Convention for the Protection of Human Rights and Fundamental Freedoms<sup>4</sup>, etc.

As a separate block is international and domestic regulations on counter-terrorism are represented. These are the international legal instruments ratified by Ukraine, in particular:

- Convention for the Suppression of Unlawful Seizure of Aircraft<sup>5</sup>;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation<sup>6</sup>;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents<sup>7</sup>;
- European Convention on the Suppression of Terrorism<sup>8</sup>;
- International Convention for the Suppression of Terrorist Bombings<sup>9</sup>;
- International Convention for the Suppression of the Financing of Terrorism<sup>10</sup>;

- Law of Ukraine “On Combating Terrorism”<sup>11</sup>;
- Regulations on the Anti-Terrorist Center and its coordination groups at the regional bodies of the Security Service of Ukraine<sup>12</sup>, etc.

An important role in the legal regulation of service and combat activities of law enforcement forces of Ukraine during the settlement of armed conflicts is played by the laws of Ukraine, which determine the legal basis for the organization and operation of law enforcement forces, its general structure, functions and powers. Among them are the following:

- Law of Ukraine “On the Armed Forces of Ukraine”<sup>13</sup>;
- Law of Ukraine “On the National Guard of Ukraine”<sup>14</sup>;
- Law of Ukraine “On the Security Service of Ukraine”<sup>15</sup>;
- Law of Ukraine “On the National Police of Ukraine”<sup>16</sup>;
- Law of Ukraine “On the State Border Guard Service of Ukraine”<sup>17</sup>;
- Law of Ukraine “On State Protection of Public Authorities of Ukraine and Officials”<sup>18</sup>;
- Law of Ukraine “On the general structure and number of the Department of State Protection of Ukraine”<sup>19</sup>;
- Resolution of the Cabinet of Ministers of Ukraine “On approval of the Regulation on the Civil Service of Ukraine

---

1. United Nations General Assembly Resolutions. Retrieved from <https://www.un.org/en/sections/documents/general-assembly-resolutions/index.html>.
2. United Nations General Assembly resolution 217A Universal Declaration of Human Rights. (1948, December). Retrieved from [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/217\(III\)](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/217(III)).
3. International Covenant on Civil and Political Rights. (1966, December). Retrieved from <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.
4. Convention for the Protection of Human Rights and Fundamental Freedoms. (1950, November). Retrieved from [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf).
5. Convention for the Suppression of Unlawful Seizure of Aircraft. (1970, December). Retrieved from <https://treaties.un.org/pages/showDetails.aspx?objid=0800000280112834>.
6. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. (1971, September). Retrieved from <https://treaties.un.org/doc/Publication/UNTS/Volume%20974/volume-974-I-14118-english.pdf>.
7. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. (1973, December). Retrieved from [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-7&chapter=18&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-7&chapter=18&clang=_en).
8. European Convention on the Suppression of Terrorism. (1977, January). <https://rm.coe.int/16800771b2>.
9. International Convention for the Suppression of Terrorist Bombings. (1997, December). Retrieved from <https://www.refworld.org/docid/3dda06ddc.html>.
10. International Convention for the Suppression of the Financing of Terrorism. (1999, December). Retrieved from <https://www.un.org/law/cod/finterr.htm>.
11. Law of Ukraine No. 638-IV “On Combating Terrorism”. (2003, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/638-15#Text>.
12. Decree of the President of Ukraine No. 379/99 “On Regulations on the Anti-Terrorist Center and its coordination groups at the regional bodies of the Security Service of Ukraine”. (1999, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/379/99#Text>.
13. Law of Ukraine No. 1934-XII “On the Armed Forces of Ukraine”. (1991, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/1934-12#Text>.
14. Law of Ukraine No. 876-VII “On the National Guard of Ukraine”. (2014, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/876-18#Text>.
15. Law of Ukraine No. 2229-XII “On the Security Service of Ukraine”. (1992, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/2229-12#Text>.
16. Law of Ukraine No. 580-VIII “On the National Police of Ukraine”. (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.
17. Law of Ukraine No. 661-IV “On the State Border Guard Service of Ukraine”. (2003, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/661-15#Text>.
18. Law of Ukraine No. 160/98-BP “On State Protection of Public Authorities of Ukraine and Officials”. (1998, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/160/98-bp#Text>.
19. Law of Ukraine No. 3106-IV “On the general structure and number of the Department of State Protection of Ukraine”. (2005, November). Retrieved from <https://zakon.rada.gov.ua/laws/show/3106-15#Text>.

for Emergencies”<sup>1</sup>, etc. In order to research the conditions of the situation regarding the organization of legal regulation of service and combat activities of the components of the security and defense sector of Ukraine in crisis situations in the area, an expert survey in questionnaire form was conducted. Employees of law enforcement forces agencies who had personal practical experience in performing combat missions in some districts of Donetsk and Luhansk oblasts were selected as respondents. The sample was 150 respondents, the number of questions was 12.

### 3. RESULTS AND DISCUSSION

The following is a brief analysis of the results of the survey. To the following question: How did you gain knowledge about the nature and peculiarities of work during the Anti-Terrorist Operation and the Joint Forces Operation? the largest number of votes was given to the answers: acquired knowledge during training (29%) and from briefings, meetings held immediately before the tasks (26%). These results indicate both a sufficient level of early training of law enforcement officers during trainings, and the effectiveness of briefings, meetings and clarifications of tasks carried out immediately before the performance of duties in the area of the Anti-Terrorist Operation and the Joint Forces Operation.

To the following question: Was there enough knowledge to perform combat missions during the Anti-Terrorist Operation and the Joint Forces Operation? approximately a half number of votes were answered “yes” (57%). This answer indicates an approximately equal number of law enforcement specialists who already had experience both before and during combat missions in the area of the Anti-Terrorist Operation and the Joint Forces Operation.

To the following question: What difficulties did you encounter during performing the task? the largest number of votes was given to the answers: Insufficient legal support of activities (29%), Lack of information about the phenomenon (21%). These responses indicate a partially insufficient level of legal support for the NPU’s actions in the area of the Anti-Terrorist Operation and the Joint Forces Operation and the insufficient level of information exchange among the components of the state security and defense forces involved in the area of the Anti-Terrorist Operation and the Joint Forces Operation.

To the following question: What principles do you think should be followed during the conduction of the Anti-Terrorist Operation and the Joint Forces Operation? the largest number of votes was given to the answer: legality (26%). These results indicate the commitment of law enforcement officers to follow the letter of the law and to comply with current legislation in the management of their actions by leaders.

To the following question: In your opinion, does the existing legislation meet the requirements that arise

during the conduction of the Anti-terrorist Operation and the Joint Forces Operation? the largest number of votes was answered: fully compliant (33%). At the same time, a significant number of votes went to the answers: Poorly meets the existing requirements (31%) and Not fully meets (30%). These results indicate the opinion of employees of NPU units on the existence of shortcomings in the existing system of legal support of their activities or actions of the security and defense forces of the State as a whole and in the area of the Anti-Terrorist Operation and the Joint Forces Operation.

To the following question: What changes, in your opinion, should be made to the existing system of law enforcement during the Anti-Terrorist Operation and Joint Forces Operation? the largest number of votes was given to the answer: improve the legal framework (38%). These results indicate the understanding of the servicemen of law enforcement agencies the need to improve certain provisions of the legal support of these formations, as part of the security and defense forces in the area of the Anti-Terrorist Operation and the Joint Forces Operation.

To the following question: In your opinion, what contributed to the shortcomings in the organization of interagency cooperation during the Anti-Terrorist Operation and the Joint Forces Operation? the largest number of votes was given to the answer: Lack of coordination of joint actions (32%). These responses show an understanding of the importance of establishing a stable and lasting relationship and a high level of interaction between the components of the security and defense forces in the area of the Anti-Terrorist Operation and the Joint Forces Operation.

To the following question: What specific shortcomings did you note in the leaders’ management decisions regarding the organization of cooperation during the Anti-Terrorist Operation and the Joint Forces Operation? the largest number of votes was given to the answers: untimely leadership decision (22%) and low speed of transfer of leadership decisions (20%). These results of the answers testify to the dissatisfaction of law enforcement officers with the untimeliness of the relevant decisions made in the governing bodies and the speed of their delivery to the executors.

To the following question: In your opinion, on what principles should the training of employees to perform combat missions during the Anti-Terrorist Operation and Operation Joint Forces be based? the largest number of votes was given to the answers: regularity in planning and earliness in preparations (16%). These results show that law enforcement officers understand the importance of good and qualified planning and pre-training of security and defense forces in the area of the Anti-Terrorist Operation and the Joint Forces Operation.

To the following question: What measures do you think are necessary to improve the organization of

1. Resolution of the Cabinet of Ministers of Ukraine No. 1052 “On approval of the Regulation on the Civil Service of Ukraine for Emergencies”. (2015, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/1052-2015-%D0%BF#Text>.

interdepartmental cooperation of law enforcement forces during the Anti-Terrorist Operation and the Joint Forces Operation? The largest number of votes was given to the answer: creation of a unified system of actions to respond to crisis situations during the Anti-Terrorist Operation and the Joint Forces Operation (38%). These results indicate the need to improve the system of general and centralized governance of security and defense forces in the area of the Anti-Terrorist Operation and the Joint Forces Operation.

The following question: Determine the role of law enforcement forces in the anti-terrorist security system of Ukraine (according to the experience of the Anti-Terrorist Operation and the Joint Forces Operation) the largest number of votes was given to the answer: the leading role (30%). The results of the answers indicate the respondents' desire to consider the NPU units as one of the key actors in the anti-terrorist security system of Ukraine (based on the experience of the Anti-Terrorist Operation and the Joint Forces Operation).

The following question: Determine the place of law enforcement forces in the anti-terrorist security system of Ukraine (by the experience of the Anti-Terrorist Operation and the Joint Forces Operation) was answered by the largest number of votes like: in the chain of secondary executors (21%). The results of the answers indicate an understanding of the importance of the managerial role of units of other formations in the anti-terrorist security system of Ukraine.

Thus, according to the results of the survey, it can be noted that the existing legislation and guidelines do not fully meet modern requirements for the organization of the service and combat missions by law enforcement units in the area of the Anti-Terrorist Operation and the Joint Forces Operation. The answers of the respondents also indicate:

- the relevance of issues of improving the organization of governance during the Anti-Terrorist Operation and the Joint Forces Operation;
- the establishment of interdepartmental cooperation of governing bodies during the Anti-Terrorist Operation and the Joint Forces Operation;
- the clear definition of tasks for law enforcement units in the area of the Anti-Terrorist Operation and the Joint Forces Operation, as a part of the security and defense forces of the State in the course of preventing and combating terrorism.

Also, a survey conducted in the form of a questionnaire proved that during emergencies it is extremely necessary to introduce emergency administrative and legal regimes. S.O. Kuznichenko notes that the extraordinary administrative-legal regime is described through a special administrative-legal regime, which, in turn, is described through the administrative-legal regime, through the legal

regime in general, which is revealed through the social regime in the philosophical sense. The legal regulation of relations arising in the context of various natural disasters, man-made accidents and catastrophes, social and military conflicts, has historically been carried out through acts governing the application of emergency measures. In this case, the legal regulation associated with the concept of special administrative and legal regime is applied [16]. Carrying out the analysis of scientific works [17-19] it can be concluded that emergency administrative and legal regimes are a form of national security in the face of global risk factors for the national interests of Ukraine. In general, authors agree with this reasoning.

The legal regime of the state of emergency is especially important among emergency administrative and legal regimes. According to the Law of Ukraine "On the Legal Regime of the State of Emergency"<sup>1</sup>, a state of emergency is a special legal regime that may be temporarily imposed in Ukraine or in certain localities in case of emergencies of man-caused or natural nature not lower than the national level, that already lead or may lead to human and material losses, endanger the lives and health of citizens, or attempt to seize State power or change the constitutional order of Ukraine through the violence. The state of emergency provides for the granting of relevant authorities, military command and local authorities, in accordance with this Law, the power necessary to prevent threats and ensure the safety and health of citizens, the proper functioning of the national economy, State and local authorities, protection constitutional order, as well as allows for temporary, threatened, restrictions on the exercise of constitutional rights and freedoms of man and citizen and the rights and legitimate interests of legal entities, indicating the term of these restrictions.

In the case of an environmental emergency, the legal regulation of relations arising during emergency measures aimed at protecting human life and health and normalization of the ecological situation in the crisis area is carried out in accordance with the Law of Ukraine "On Environmental Emergency Zone"<sup>2</sup>. The Article 8 of the Law discloses the legal regime of the environmental emergency zone, namely: the legal regime of the environmental emergency zone (a special legal regime that may be temporarily introduced in certain areas in case of environmental emergencies and is aimed at preventing human and material losses, prevention of threat to life and health of citizens, and also elimination of negative consequences of an emergency ecological situation). It is also determined that if there are sufficient grounds within the zone of ecological emergency, the legal regime of the state of emergency may be introduced.

In the event of an armed conflict an emergency legal regime of martial law requires its implementation. The

1. Law of Ukraine No. 1550-III "On the Legal Regime of the State of Emergency". (2000, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/1550-14#Text>.

2. Law of Ukraine No. 1908-III "On Environmental Emergency Zone". (2000, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/1908-14#Text>.

Article 1 of the Law of Ukraine “On the Legal Regime of Martial Law”<sup>1</sup> provides that martial law is a special legal regime introduced in Ukraine or in some of its localities in case of armed aggression or threat of attack, danger of State independence of Ukraine, its territorial integrity and provides for the provision of relevant State authorities, military command, military administrations and local authorities the necessary power to deter the threat, repel armed aggression and ensure national security, eliminate the threat danger to the State independence of Ukraine, its territorial integrity, as well as temporary, threatened, restriction of constitutional rights and freedoms of man and citizen and the rights and legitimate interests of legal entities, indicating the term of these restrictions.

According to the results of the research, it is possible to note that the strategic situation of the XXI century covers many ethnic, religious, ideological drivers that require the sustainable solutions in societies which are undermined by conflict, disaster or humanitarian catastrophes. Military means alone cannot be used to solve these serious problems [20]. Under such conditions, according to majority of expert’s opinion and in accordance with modern requirements of international humanitarian law, the settlement of armed conflict in Ukraine can’t be carried out without civil-military cooperation. Civil-military cooperation as a military function is an integral part of modern multidimensional operations, appeals to all parties for cooperation in conflict situations and facilitates mutual support of civilian forces and means for the armed forces and vice versa [21]. The main idea of this interaction is to achieve a certain and usually desired end result, for better interaction of military and law enforcement agencies with the local population and civilian actors.

Military operations are currently taking place in a broader political and social context than before, so governing bodies increasingly need to take into account social, political, cultural, religious, economic, environmental and humanitarian factors in the planning and conducting of special operations. The scale, nature, risks and challenges in this multinational, multi-agent environment require greater understanding and emphasis on civil-military cooperation at all levels of work [22; 23]. The aim and the purpose of civil-military cooperation is the interaction between military and civilian actors in a comprehensive environment is to maintain the military command’s plan. Ideally, all participants will work to achieve a common goal, but where this is not possible, interaction will ensure that measures to maintain each plan are as consistent as possible. This will minimize obstacles or unintentional conflicts between all participants. This interaction can have the following components: coordination; cooperation; mutual support; coherent joint planning; information exchange<sup>2</sup>. The leadership of military formations and law enforcement agencies, as

appropriate, needs significant civilian support to coordinate efforts to minimize disruption of a special operation. For this reason, civil-military cooperation plays an active role, it facilitates the planning of operations and is involved in these operations. Such activities in cooperation with other combat functions include:

- 1) the obtaining of operational information about the social component (civil environment) of the crisis situation;
- 2) the analysis of information and compilation of a comprehensive description of the crisis situation;
- 3) the assessment of the crisis situation, identification of civilian key indicators and factors that have a decisive influence on operations, as well as the impact of the military situation on the civilian environment;
- 4) the providing recommendations needed during the planning of the operation to mitigate critical military influence on the civilian population;
- 5) the participation of the civil-military cooperation specialists in planning of the operation;
- 6) the encouragement of the forces;
- 7) the ensuring a favorable impact on the public in the area of combat missions;
- 8) the access to civilian resources when is necessary providing.

Thus, the nowadays situations in Ukraine shows that the theory of military activity of law enforcement forces needs a new development in the terms of settlement of armed confrontation in separate areas of Donetsk and Luhansk areas. Therefore, the issues of regulatory and legal support of law enforcement agencies in responding to crisis situations come to the fore [24; 25]. The analysis of normative legal acts shows that legal norms are not formulated clearly enough and ambiguously interpreted by law enforcement agencies [26]. Therefore, it is necessary to refine the legislative mechanism for preventing and responding to crisis situations that threaten the national security of Ukraine. The basis of legislative regulation of service and combat activities of law enforcement forces in crisis situations are laws and bylaws, which define the tasks, structures, rights, responsibilities and other issues of law enforcement [27; 28]. The by-laws are supplementing the laws, which are promptly eliminating the shortcomings of the legislation. Currently, these regulations need to be finalized in line with the reforms introduced by the Government of Ukraine in the field of security and defense.

## CONCLUSIONS

Today, law enforcement agencies and subdivisions operate without proper coordination and coordination of both independent and joint actions during the performance of service and combat missions. This applies to both related activities of services in various departments and in general service and combat activities of military formations and

1. Law of Ukraine No. 389-VIII “On the Legal Regime of Martial Law”. (2015, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/389-19#Text>.

2. AJP-9 NATO Civil-Military Co-Operation (CIMIC) Doctrine. (2003, June). Retrieved from <https://www.nato.int/ims/docu/ajp-9.pdf>.

special purposes law enforcement agencies. Therefore, the most pressing issues are the development of effective mechanisms for organizing interagency cooperation of law enforcement forces in responding to crises that threaten the national security of Ukraine. Military planning requires the use of civil-military cooperation, which allows all other military units to work within and outside the area of service and combat missions. Numerous parameters of modern military operations are influenced by civil-military cooperation, as their attention is focused on the civilian environment.

In order to research the best practices of Ukraine on the functioning of Public mechanisms of response of the security and defense sector of Ukraine to crisis situations during the Anti-Terrorist Operation and the Joint Forces Operation

in some districts of Donetsk and Luhansk regions, an expert survey of anti-terrorist security experts was conducted. The results of the survey provided an opportunity to identify the main problematic issues in the functioning of the anti-terrorist security system and provide appropriate development proposals. The State authorities today need to focus on improving the organization of management, establishing interagency cooperation between government agencies, increasing the level of pre-training of personnel, a clear definition of tasks for law enforcement units during special operations. Areas of further research will be aimed at developing State mechanisms of responding by the components of the security and defense sector of Ukraine to crisis situations.

## REFERENCES

- [1] Bilandžić, M. (2018). Culture and national security: Contribution to critical security studies' discussions. *Studia Ethnologica Croatica*, 30(1), 227-251.
- [2] Bandurka, O.M., & Litvinov, O.M. (2015). The system of combating crime: concept and essence. *Bulletin of the Criminological Association of Ukraine*, 2(10), 168-177.
- [3] Barabash, O.V. (2018). Political and legal approaches to the essence of the conflict, the methods of its resolution and the formats for coordinating efforts in the liberal-democratic world. *Modern Society*, 1(15), 18-29.
- [4] Dolzhenkov, O.F., & Tarasenko, R.V. (2017). Strategy as a category of the theory of criminology and operational and investigative activities. *Bulletin of Criminal Proceedings*, 2, 150-156.
- [5] Dubko, Y.V., & Butkevich, S.A. (2010). Service and combat activity of law-enforcement bodies: Current state and prospects of development. *Scientific Bulletin of Dnipropetrovsk State University of Internal Affairs*, 2(48), 9-18.
- [6] Kornienko, M.V. (2015). Some aspects of the reform of the Ministry of Internal Affairs. *Air and Space Law*, 4, 145-148.
- [7] Kuznichenko, S.O. (2019). Limits of emergency legal regulation: Doctrinal definitions. *Law of Ukraine*, 1(5), 101-110.
- [8] Lipkan, V.A. (2014). Conceptual framework and nature of the general theory of national security. *Central and Eastern European Legal Studies*, 2, 231-256.
- [9] Pletnev, O.V. (2013). Legal status of the Antiterrorist Center at the Security Service of Ukraine: Status and ways to improve. *Law Forum*, 1, 783-787.
- [10] Savochkina, D.O. (2014). Legal status of the Main Department of the National Guard of Ukraine. *Current Issues of State and Law*, 73, 112-117.
- [11] Strelbytsky, M.P., & Pogrebytsky, M.L. (2015). Legal mechanisms of management in the conditions of information war and emergency regimes. *Information and Law*, 1, 78-84.
- [12] Syagrovets, V.A. (2013). General characteristics of information support of service and combat activities of special units. *South Ukrainian Law Journal*, 3, 136-138.
- [13] Yarmaki, H.P. (2015). On the issue of improving the legal regulation of the functioning of the security and defense sector of Ukraine. In *Collection of scientific works on the materials of the III International Scientific-Practical Conference "Current state and prospects of development of the security sector of Ukraine: Public-private aspects"* (pp. 96-99). Kharkiv: Pleyada.
- [14] Connors, N. (2019). Education and the humanitarian space: Is there a dissonance between military education and military practice? *Irish Studies in International Affairs*, 30, 171-193.
- [15] Krejija-Gaikste, S., & Katane, I. (2020). Theoretical and legal basis of young people's military career in the field of national defence. *Proceedings of the 26<sup>th</sup> International Scientific Conference on Research for Rural Development*, 35, 288-295.
- [16] Kuznichenko, S.O. (2009). *Emergency administrative and legal regimes: Foreign experience and the Ukrainian model*. Simferopol: CrimeaNavchPed.
- [17] Lankauskienė, T., & Tvaronavičienė, M. (2012). Security and sustainable development: approaches and dimensions in the globalization context. *Journal of Security and Sustainability Issues*, 1(4), 287-297.
- [18] Endrijaitis, R., & Alonderis, A. (2015). Security facets: complex dynamic systems and leadership in military. *Journal of Security and Sustainability Issues*, 4(4), 299-309. doi: 10.9770/jssi.2015.4.4(0).
- [19] Talhofer, V., Hošková-Mayerová, Š., & Hofmann, A. (2016). Towards efficient use of resources in military: Methods for evaluation routes in open terrain. *Journal of Security and Sustainability Issues*, 6(1), 52-70. doi: 10.9770/jssi.2016.6.1(4).
- [20] Torres, J. (2020). Predicting law enforcement confidence in going "hands-on": The impact of martial arts training, use-of-force self-efficacy, motivation, and apprehensiveness. *Police Practice and Research*, 21(2), 187-203.

- [21] Brecht, S., Carroll, R.E., Davidov, P., Greene, M.E., Hanson, A.L., Lee, R., Raganella, A., & Schauf, R.S. (2019). Developing U.S. Standards for Law Enforcement Civil Disturbance Unit Personal Protective Equipment. *ASTM Special Technical Publication*, STP 1614, 189-194.
- [22] Parkin, W.S., Bejan, V., & Hickman, M.J. (2020). Police, public and community violence: Exploring the relationships between use of deadly force, law enforcement killed, and homicide rates in the United States. *Criminology, Criminal Justice, Law and Society*, 21(2), 1-20.
- [23] Garner, J.H., Hickman, M.J., Malega, R.W., & Maxwell, C.D. (2018). Progress toward national estimates of police use of force. *PLoS ONE*, 13(2), article number e0192932.
- [24] Shi, W., Aguilera, R., & Wang, K. (2020). State ownership and securities fraud: A political governance perspective. *Corporate Governance: An International Review*, 28(2), 157-176.
- [25] Adechian, D.D.C. (2020). Governance, peace, and security perception index: Methodological aspects and application in the WAEMU member states. *Statistical Journal of the IAOS*, 36(S1), S27-S38.
- [26] Skierka, I.M. (2018). The governance of safety and security risks in connected healthcare. *IET Conference Publications*, 2018(CP740), 87-98.
- [27] Arefin, M.R. (2019). The State, sewers, and security: How does the Egyptian state reframe environmental disasters as terrorist threats? *Annals of the American Association of Geographers*, 109(2), 412-421.
- [28] Yin, Y. (2020). Characteristics of social governing organizations and governance of emergent public security events from the perspective of public safety. *Revista de Cercetare si Interventie Sociala*, 69, 241-260.

#### **Serhii V. Bielai**

Full Doctor in Public Administration, Professor  
Chief of the Department of Military-Social and Psychological Support  
National Academy of the National Guard of Ukraine  
61001, 3 Zakhysnykiv Ukrainy Sq., Kharkiv, Ukraine

#### **Oleksandr F. Kobzar**

Full Doctor in Law, Professor  
Chief of the Department of State Security  
Kyiv Faculty of the National Academy of the National Guard of Ukraine  
03179, 7 Oborony Kyieva Str., Kyiv, Ukraine

#### **Ihor V. Yevtushenko**

PhD in Law, Associate Professor  
Department of Tactics-Special, Fire and Special Physical Training  
Juridical Personnel Training Institute for the Security Service of Ukraine  
Yaroslav Mudryi National Law University  
61024, 77 Pushkinska Str., Kharkiv, Ukraine

#### **Vasyl Korniienko**

PhD in Law, Associate Professor  
Department of Criminalistics, Forensic Expertise and Pre-Medical Training  
Kharkiv National University of Internal Affairs  
61080, 27 L. Landau Ave., Kharkiv, Ukraine

#### **Oleksandr V. Koba**

PhD in Pedagogical Sciences  
Deputy Chief of the Department of Service and Combat Application of  
Units of the National Guard of Ukraine  
Kyiv Faculty of the National Academy of the National Guard of Ukraine  
03179, 7 Oborony Kyieva Str., Kyiv, Ukraine

**Suggested Citation:** Bielai, S.V., Kobzar, O.F., Yevtushenko, I.V., Korniienko, V.V., & Koba, O.V. (2021). The legal regulation of service and combat activities of the security and defense sector of Ukraine in crisis situations. *Journal of the National Academy of Legal Sciences of Ukraine*, 28(2), 76-85.

**Submitted:** 03/03/2021

**Revised:** 18/05/2021

**Accepted:** 12/06/2021