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Military administrations as an element of national security under international and Ukrainian legislation

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Abstract

The article discusses some problems of military and civilian administrations operating in Ukraine with the aim of maintaining the national security regime. In particular, the authors investigate the social and political reasons behind the decision to create special government agencies, in the form of civil military administrations. In addition to the comprehensive analysis of the relevant legislative framework, reference has been made to the practical functions of these administrations. The study methodology includes a variety of research tools aimed at improving the analysis and a problem-oriented approach. The conclusions are focused on improving the legislative as well as organizational frameworks of civil-military administrations in the Donbass region. In particular, based on the basic principles within the civil society, including the supremacy of civil society over the armed forces, the discussed Law should be effectively renamed as the Law “On civil-military administrations” with a continuous approach, potentially within a specially drafted project. It is suggested to include a chapter of the Law, on military support of civilian authorities and official efforts of reconstruction of public order in certain areas of Donetsk and Lugansk regions.

Keywords: military-civil administration; national security; military conflict; government functions; Donbass region.

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Las administraciones militares como elemento de seguridad nacional en virtud de la legislación internacional y ucraniana

Resumen

El artículo aborda algunos problemas de las administraciones militares y civiles que funcionan en Ucrania con el objetivo de mantener el régimen de seguridad nacional. En particular, los autores investigan las razones sociales y políticas detrás de la decisión de crear agencias gubernamentales especiales, en la forma de administraciones civiles militares. Además del análisis exhaustivo del marco legislativo pertinente, se ha hecho referencia a las funciones prácticas de estas administraciones. La metodología de estudio incluye una variedad de herramientas de investigación destinadas a mejorar el análisis y un enfoque orientado a la solución de problemas. Las conclusiones se centran en mejorar los marcos legislativos como organizativos de las administraciones civiles-militares en la región de Donbass. En particular, sobre la base de los principios básicos dentro de la sociedad civil, incluida la supremacía de la sociedad civil sobre las fuerzas armadas, la Ley discutida debería ser renombrada efectivamente como Ley “Sobre las administraciones cívico-militares” con un enfoque continuo, potencialmente dentro de un proyecto especialmente redactado. Se sugiere incluir un capítulo de la Ley, sobre el apoyo militar de las autoridades civiles y los esfuerzos oficiales de reconstrucción del orden público en ciertas áreas de las regiones de Donetsk y Luhansk.

Palabras clave: administración militar-civil; seguridad nacional; conflicto militar; funciones de gobierno; región de Donbass.

Introduction

Globally, different models of administrative management exist on the territories adjacent to and on the territories where military action, anti-terrorist operations, are active. Based on some aspects of foreign experience, including historical, it is worth mentioning that under conditions of armed confrontation, even in the form of a hybrid military conflict, the traditional model of civilian governance does not work, but new forms of state and regional power have to be introduced. That is, the creation and current functioning of the military-civil administrations in some districts of Donetsk and Luhansk regions is an atypical, but reasonable step taken by the political leadership of Ukraine.

For example, Israel has chosen a model for managing civilian military administrations (their conditional counterpart) directly by its own armed forces, agreeing to divide the West Bank into three zones according to the level of local interference. At the same time, within zone “C” the local military-civil administration of Israel is completely autonomous in its affairs and is responsible for its own activities.

At one historical point, the United States temporary military government in Okinawa, under the full control of its own local administration (which in its status and authority was in fact military-civilian), gave local residents the right to establish local executive and self-governing bodies to deal with a wide range of issues. At the same time, the head of the American administration and his deputy were given the right to suspend any decision of the local (Japanese) government, and the most important officials of the local administration were also appointed only with the consent of the Americans. Thus, there is a pragmatic two-pronged approach: on the one hand, giving local residents the right to build their own system of regional governance, while the Americans prevented any separatist, anti-American actions by local authorities (Kuzmenko, 2020).

Today, Croatia can serve as yet another successful example of reintegration of the territory and construction of a temporary administration for such purposes. According to the intergovernmental agreement (Croatia and Serbia through the UN and the US), a temporary transitional UN administration in the form of a local model of military-civilian administration had been envisaged for a period of two years. Such organization combined in its competence military, security and civilian aspects, which allowed to quickly and harmoniously integrate Slavonia into Croatia (Kuzmenko, 2020).

Thus, even based on some aspects of foreign experience, including historical, it should be noted: under conditions of armed confrontation, even in the form of a hybrid military conflict, the traditional model of civilian governance does not work. Thus, new forms of state and regional power must be introduced. That is, the creation and current functioning of the military-civil administrations (hereinafter – MCA) in some districts of Donetsk and Luhansk regions is an atypical, though reasonable step by the leadership of Ukraine.

Mechanisms of interaction between the state and civil society institutions are considered by researchers in several aspects. From the legal science point of view, civil society, as a constituent state, is such a model of social development that offers balanced inter-control and inter-limitation of state bodies and non-governmental entities (civil society institutions) so that the activity of state bodies is always within the sphere of monitoring by non-state structures (Triukhan *et al.*, 2019).

Public administration as a specific type of public-political relations in the process of exercising power-administrative powers has the task of streamlining all social processes in order to achieve sustainable development of the nation and the country. Economic well-being and social stability are important criteria for state institutions to perform their functions. However, their achievement is not always linked to external stability, and government action is often aimed at overcoming natural, social, and less often political and military risks. Public administration as a qualitatively new form of management of state and public affairs aims to streamline social processes to ensure sustainable development of the nation and the state, which is realized through the activities of public authorities in economic, social, cultural, political and other spheres (Maslova, 2021).

The current crisis in some parts of eastern Ukraine is complicated by the fact that the military conflict has not received proper legally recognition, it is not defined as an international legal conflict with the status of war.

With such background, civil-military relations create dialectical unity of society and military organization of the state, that is, the civil and military spheres, subordinate in the interests of stable functioning of the national security system of the given state (Dulger, 2019).

1. Theoretical Framework

The theoretical framework of this paper is grounded on normative basis as well as on legal literature related the topic. Relevant provisions of the Constitution of Ukraine as well as of the basic Law of Ukraine “On military-civil administrations” have been discussed within the paper as well. A set of academic literature, primarily research papers, on various issues of the legal status of military-civil administrations and their functioning has been researched with the focus on the goals of such institutions aimed at preserving the national security in Ukraine.

Finally, information from both official and investigative websites related to the topic of military-civil administrations functioning has been analyzed and integrated within this research.

2. Methodology

The article employs a set of research methods, namely: terminological, structural, formal-logical, historical.

The structural method has been used to describe the meaning and structure of legal provisions related to the issues around military-civil

administrations functioning. Also, reference systemic method has allowed characterizing current limits of permissible behavior in the area of public service in their relationship with the norms of other legal bodies, including constitutional law.

The terminological method, in turn, has revealed a separate body of legal terms and concepts related to the military-civil administrations functioning and responding to various military threats. Integration of such terms and definitions into the legal system of Ukraine allows to better understand the meaning and goals of official military-civil management.

The historical method of research has allowed to look into some previous attempts to officially introduce government agencies combining both civil and military functions.

Finally, turning to the formal-legal method has enabled the authors to properly analyze legal substance of the national legislation covering various issues of military-civil administrations functioning.

3. Results and Discussion

On May 1, 2018 the Joint Forces Operation (hereinafter – JFO), as a special military venture, was announced in Donetsk and Luhansk regions, which has replaced the previously launched anti-terrorist operation (ATO). The system of public administration under the circumstances of anti-terrorist operation, and later the JFO, has revealed a number of issues previously unknown in Ukraine.

Obviously, Ukraine was not ready for external military aggression and management of its own territories in a situation where hostilities are taking place.

The ongoing military aggression against Ukraine and the exercise of the “hybrid warfare” strategy have become a new reality at the present stage of development of geopolitical processes.

Under the circumstances, it has become clear that existing models of territorial organization of power and local self-government, created during more than twenty years of independence, did not meet the challenges of escalating such military confrontation. Just as one example, Ukraine’s Security Service has accused Russia of thousands of cyber-attacks against Ukrainian infrastructure and institutions, including 6,500 incidents within the last two months of 2016 only (Sullivan *et al.*, 2017).

The lack of an effective system of popularization and information about the activities of the AFU and aggressive anti-Ukrainian propaganda by the Russian Federation has created preconditions for distrust and, in some

cases, opposition from the local population in some districts of Donetsk and Luhansk regions (Lutsenko *et al.*, 2021).

Unfortunately preventive diplomacy as a progressive legal and political tool for conflict prevention has largely failed in the conflict between the Russian Federation and Ukraine. The Organization for Security and Cooperation in Europe (OSCE) also could not prevent or mitigate the ongoing military conflict. While the use of preventive technologies has had positive results on the European continent, particularly in Macedonia, Albania, Latvia, and Estonia, etc., at the same time the conflict in the East of Ukraine has enabled preventive diplomacy to achieved only partial success, mainly because these conflicts do not have a large scale and numerous victims. The OSCE is often blamed with this regard, for it does not conflict with the Russian Federation, denies that Russia is a party of these conflicts and does not fully perform the functions assigned to it as an international security organization (Habro *et al.*, 2021).

Carrying out ATO and JFO in Ukraine necessitated solution of a number of tasks in order to ensure normal functioning of administrative-territorial units of Donetsk and Luhansk regions, in which local governments did not perform their functions. Therefore, there was a challenge of finding a new mechanism for managing given territories during the military conflict. Under such conditions, an obvious question has risen: who exactly should exercise the powers of local executive bodies, local self-government bodies in the respective territories?

Therefore, creation and proper functioning of MCAs becomes relevant, which should create necessary conditions for the development of territories and help overcome negative consequences and military threat. This underlines the urgency of the issue of determining functional parameters of military-civil administrations in Ukraine, as well as comparing these functions with the tasks of units of the Armed Forces of Ukraine and other state bodies within the territories of Donetsk and Luhansk regions adjacent to the demarcation line.

Any given state exercises its powers through the relevant state bodies and their officials, as well as through various non-governmental organizations and representative bodies. The system of military-civil administrations as governmental bodies with special status and powers in the East of Ukraine is no exception here.

Despite many difficulties of the political, social and economic situation in Ukraine caused by the military aggression of a hybrid nature, all tasks, goals, functions and principles of any government must primarily coincide with the political goals of government.

At the same time, under the current circumstances in Ukraine, the main objective is to achieve and consolidate successful results of military

operations, as well as to restore the functioning of state power in the crisis area. As the general background to this, the military sphere reflects the real state of affairs of a certain social system, which highlights a wide range of state strategic issues, including social relations related to the protection of human rights and legitimate interests of the society and the state at large from the foreign armed forces by ensuring proper functioning and creating necessary conditions for their normal development (Lutsenko, 2020).

The key piece of legislation in the area of MCA regulation is the Law of Ukraine of February 3, 2015 № 141-VIII “On military-civil administrations” (Law No. 141-VIII, 2015). Under paragraph 15 of Art. 3 of this Law Verkhovna Rada of Ukraine (the national parliament) exercises parliamentary control over the activities of the MCA. Usually, activities of the MCA are also subject to other Laws of Ukraine, which apply to the entire territory of Ukraine, in the part relating to the activities of the MCA: security, economic development, education, medicine, culture, social protection etc.

MCA is also subordinated to the President of Ukraine, who actually forms and reorganizes the MCA by his decrees, appoints the heads of the MCA, determines the list of positions, makes a decision on the liquidation of such administrations).

As followed directly from the name of the administrative body researched in this paper, MCA combines both military and civil components. Both are important for operational purposes. As rightly put by one American commentator, the administrative military’s origins can be found in the Constitution, statutes, and military doctrine. Its functions include personnel management, staffing, recruiting, testing, training, health care, equipping and hardware acquisition (Nevitt, 2018).

MCAs are partially subordinated to the Cabinet of Ministers of Ukraine, since they are also responsible for exercising the powers of the executive branch. Therefore, the MCA must comply with the resolutions and orders of the Cabinet of Ministers in the part related to current routine activities of the MCA.

It is obvious that activity of the MCA is also subject to the normative documents of the Joint Operational Staff of the Armed Forces of Ukraine in the relevant part.

Thus, legal framework governing activities of the MCA is quite complex and also multilevel: laws of Ukraine, decrees of the President of Ukraine, resolutions of the Cabinet of Ministers, regulations of ministries and other central executive bodies in Ukraine. Also, on a routine, day-to-day basis, MCA is guided in its activities by its own regulations of local legal force – the orders of the head of the given MCA (Svitlodar, 2022).

Before further proceeding to the analysis of the key provisions of the central document for this study, the Law on the MCA of 2015, it is necessary to briefly refer to the genesis of an unprecedented legal step for Ukraine to establish the MCA against the background of military confrontation in Donbas region.

In an explanatory note to the draft Law of Ukraine “On Military-Civil Administrations”, the authors of the bill have underlined that the anti-terrorist operation in Donetsk and Luhansk regions had revealed a number of issues caused by the failure of local governments to implement the Constitution, in particular as a result of their actual self-removal from the exercise of their powers. This had an extremely negative impact on the security and livelihoods of the population in the area of the anti-terrorist operation.

At the same time, experts of the Main Scientific and Expert Department of the Verkhovna Rada of Ukraine have expressed a number of critical remarks on this document, which unfortunately have not been addressed within the text of the final version of the Law. Among the key remarks, in the opinion of the parliamentary experts, are the following four blocks of issues.

1. Based on Part 1 of Art. 3 of the Bill (now the law), it follows that the MCA should be formed by the decision of the President of Ukraine.

However, in accordance with Part 2 of Article 19 of the Constitution of Ukraine, public authorities and local governments, their officials, are obliged to act only on the basis, within the powers and in the manner prescribed by the Constitution and laws of Ukraine. The powers (rights and responsibilities) of the President of Ukraine are established exclusively by the Constitution of Ukraine, which is directly indicated by the provisions of paragraph 31 of Part 1 of Art. 106 of the Basic Law. The Constitutional Court of Ukraine has repeatedly drawn attention to this fact in its decisions.

Similar remarks address the novelties regarding the powers of the President of Ukraine to approve the list of positions in the MCA (Part 6 of Article 3 of the draft Law), appointment and dismissal of the head of the MCA (Part 1 of Article 6 of the draft).

Such novelties violate basic provisions of the constitutional order regarding the rule of law, the highest legal force of the Constitution of Ukraine, requirements of compliance of laws and other regulations with the requirements of the Basic Law of Ukraine (Article 8).

2. Powers of the MCA, proposed in the draft law, include the powers granted to local self-government bodies by the Law of Ukraine “On Local Self-Government in Ukraine”, in particular, the powers provided for in Art. 26 (exclusive competence of village, settlement,

city councils), Art. 36 (powers of executive bodies of village, settlement, city councils in the course of defense activities), Art. 43 (issues that are decided by district and regional councils exclusively at their plenary sessions) of this Law. However, some of these powers of local governments follow from the constitutional requirements of Art. 143 of the Constitution of Ukraine and by their nature may not be transferred at all to any other permanent or temporary bodies. Similarly, powers delegated to local state administrations by Article 119 of the Constitution of Ukraine may not be transferred to any other bodies.

3. Proposals in paragraphs 7, 8 of Art. 6 of the draft Law have been a violation of the rights of local self-government on concluding agreements *on behalf of the territorial community*, giving orders and instructions of the head of the MCA the legal force of decisions of the relevant council, which are usually taken collectively.
4. Analysis of the proposed novelties in the draft Law has revealed the need to harmonize them not only with the provisions of the Constitution of Ukraine, but also with the provisions of the laws of Ukraine “On Local Self-Government in Ukraine”, “On Local State Administrations”, “On Security Service of Ukraine”.
5. Parliamentary experts have also drawn attention to the fact that at that time the Parliament had already registered a draft Law of Ukraine “On the special procedure for exercising certain powers of local governments for the anti-terrorist operation in Donetsk and Luhansk regions” № 1529 of 26.01.2015, the subject of legal regulation of which intersects with the submitted bill. In essence, the submitted draft and the bill № 1529 offer different approaches to resolving the issue of exercising the powers of local governments in the ATO zone. In particular, the bill № 1529 is based on the idea of transferring powers of local self-government bodies in case of their non-implementation by the relevant bodies to *local state administrations* within the relevant administrative-territorial unit.

This approach was justifiably viewed as more acceptable given the fact that legal nature of local governments and local executive bodies has many common features, objectives and orientations. Both operate at the local level within a defined territory, in particular to ensure the livelihood of its territorial communities. The closeness of the legal essence of the activities of these bodies in content and partly in form allowed to consider it more appropriate to address the issue raised by the draft by clarifying powers, staffing, logistics of local executive bodies in relevant territories with enhanced cooperation with Security Service of Ukraine, Armed Forces of Ukraine, military formations operating in accordance with the current legislation of Ukraine.

However, constructive and well-argued remarks by the parliamentary experts have not been taken into account when voting for the current version of the Law on MCA. According to the Law “On Military-Civil Administrations” of 2015, this legal act defines organization, powers and procedures of military-civil administrations, which are formed as a temporary coercive measure with elements of military management to ensure security and normalize the population in the area, repulse the armed aggression of the Russian Federation, in particular in the area of the anti-terrorist operation, which is not aimed at changing and / or abolishing the constitutionally enshrined right of territorial communities to local self-government.

The 2015 Law (Article 1) defines military-civil administrations as temporary state bodies in villages, settlements, cities, districts and regions operating within the Anti-Terrorist Center of the Security Service of Ukraine (if formed to fulfill the powers of relevant bodies) in the area of the anti-terrorist operation) or as part of the Joint Operational Headquarters of the Armed Forces of Ukraine (in case of their formation to fulfill the powers of relevant bodies in the area of national security and defense, repel and deter armed aggression in Donetsk and Luhansk regions) and are designed to ensure the Constitution and laws of Ukraine, security and normalization of life, law and order, participation in combating acts of armed aggression, acts of sabotage and terrorism, prevention of humanitarian catastrophe in the area of repulse of armed aggression by the Russian Federation, including anti-terrorist operations.

MCA of the regional level	District	MCA level of settlements
Donetsk region - Donetsk MCA	Bakhmut	Svitlodar city MCA
		Toretsk city MCA
	Volnovasky	Volnovakha city MCA
		Vuhledar city MCA
		Myrne village MCA
		Olgin village MCA
	Mariupol	Sartan village MCA
	Pokrovsky	Avdiivka City MCA
		Marjinka City MCA
		Ocheretyn village MCA
Kramatorsk	Slovyansk city MCA	
Luhansk region – Luhansk MCA	Severodonetsk	Hirska city MCA
		Lysychansk City MCA
		Popasna City MCA
		Severodonetsk city MCA

	Shchastynsky	Shchastyn city MCA
		Stanychno-Luhanska village MCA
		Nizhnoteplivska rural MCA
		Shirokivska village MCA

Figure 1 – Structure of Military-Civil Administrations in Some Parts of Donetsk and Luhansk Regions. Source: Decree of the President of Ukraine № 61/2021 “On the formation and reorganization of military-civil administrations in the Donetsk region”

An important detail should be underlined here: in accordance with this provision of the MCA Law, state institutions may, if needed, be established in any region of Ukraine – in case of official introduction of the anti-terrorist operation regime. At the same time, these state bodies will operate as part of the Anti-Terrorist Center of the Security Service of Ukraine. And a separate “branch” (type) of the MCA – those that are currently established and operate as part of the Joint Operational Headquarters of the Armed Forces of Ukraine to perform the powers of relevant bodies in the field of national security and defense, repel and deter armed aggression of the Russian Federation in Donetsk and Luhansk regions.

Thus, the Law on the MCA seems to set an administrative precedent for the future – the ability to create and further spread the experience of the MCA to any locality in Ukraine in case of launching the anti-terrorist operation regime.

Military-civil administrations of a district or a region are temporary state bodies that exercise the powers of rayon, oblast councils, state administrations and other powers defined by this Law in the respective territory.

Military-civil administrations of settlements are temporary state bodies that exercise in the territories of the respective territorial communities approved by the Cabinet of Ministers of Ukraine the powers of village, settlement, city, district councils in cities (in case of their creation), executive bodies of village, settlement, city, district councils in cities (in case of their creation), village, settlement, city mayors and other powers defined by this Law.

At the same time, this study has revealed that currently there are only MCAs of the regional level (Luhansk and Donetsk regions) in Ukraine, as well as MCA of the level of settlements – urban and rural. However, no district MCAs and district MCAs in cities exist, despite the legislative possibility of their creation.

It is important to pay attention to the fact that MCAs of settlements must be headed by persons from among the personnel of military units formed in accordance with the laws of Ukraine, members of the rank and file and chiefs of law enforcement agencies (Shutova *et al.*, 2020). This requirement follows from the Decree of the President of Ukraine of April 23, 2015 N° 237 “On some issues of military-civil administrations” (as amended). The document states that within such MCAs only persons from enlisted members of military formations, members of the rank and file and chiefs of law enforcement agencies, can be appointed to the following positions:

- 1) City (town) Military-Civil Administration – Head, First Deputy Head, Deputy Head of Security and Public Order, Chief Specialist of the Information Policy Department (Sector);
- 2) Village Military-Civil Administration – Head, Deputy Head for Security and Public Order, Chief Specialist of the Information Policy Department (Sector);
- 3) Small village Military-Civil Administration – Head, Deputy Head of Security and Public Order, Chief Specialist of the Information Policy Department (Sector).

Instead, at the level of regional and district MCA leadership positions can be replaced by persons from among the personnel of military formations created in accordance with the laws of Ukraine, members of the rank and file and senior law enforcement officers. That is, there is a significant difference between the obligation and the possibility of appointing persons to appropriate positions in different MCAs.

Position	Number of positions
City Military-Civil Administration	
Head	1
First Deputy Head	1
Deputy Head of Security and Public Order	1
Chief Specialist of the Information Policy Department (Sector)	1
Village military-civil administration	
Head	1
Deputy Head of Security and Public Order	1
Chief Specialist of the Information Policy Department (Sector)	1

Rural military-civil administration	
Head	1
Deputy Head of Security and Public Order	1
Chief Specialist of the Information Policy Department (Sector)	1

Figure 2 – List of positions in the military-civil administrations of settlements to which persons from among the servicemen of military formations formed in accordance with the laws of Ukraine, persons of the rank and file and commanding staff of law enforcement agencies are appointed. Source: Decree of the President of Ukraine № 237/2015 “On some issues of military-civil administrations”

Military-civil administrations are legal entities under public law and are endowed with powers under this and other laws, within which they act independently and are responsible for their activities under the law.

It is worth noting that MCAs have a fairly complex organizational structure, due to the specifics of their powers in a wide range of powers and areas of responsibility – from security and public order to the development of education, health care and etc. MCA is simultaneously subordinated to the President of Ukraine (who actually forms and reorganizes the MCA by his decrees, appoints the heads of the MCA, determines the list of positions, decides on the liquidation of such administrations). MCA are also partially subordinated to the Cabinet of Ministers of Ukraine, as they are also responsible for exercising the powers of the executive branch. Finally, the Parliament of Ukraine (the Verkhovna Rada), within legal authority based on paragraph 15 of Art. 3 of the Law on MCA exercises parliamentary control over the MCA activities.

MCA officials act, to a certain degree, as a liaison between regular armed forces and law enforcement agencies, as well as civilians in the conflict zone, and are primarily responsible for the information component of cooperation between the two sides. MCA staff coordinates activities of military, governmental, non-governmental, international, charitable, religious and other organizations in the direct provision of assistance and care to the conflict-affected population.

The routine activities by the MCA are open and public, except for the consideration of issues, which are classified information or belong to the List of information that constitutes classified official information (“For official use only”). Public and transparent coverage of MCA activities is done in the manner prescribed by law.

As previously noted, the concept of military-civil administration is defined at the legislative level. In accordance with the Law of Ukraine “On Military-Civil Administrations” of 2015, MCA is defined as a special, important element of the mechanism of public administration that ensures the performance of state functions, while endowed with power, acts based on the principle of responsibility to the local community and the state, legal entities and individuals for their activities.

The final section of this article will cover some of the key security-related functions (responsibilities) carried out by the MCAs according to the MCA Law. It is obvious that MCA has a list of its unique functions and powers that derive directly from the MCA Law provisions.

Legal literature highlights the following key features inherent in the military-civil administration structure: 1) MCAs are state bodies; 2) MCAs are temporary; 3) MCAs are established in villages, settlements, cities, districts and oblasts; 4) MCAs have a special purpose, which is to ensure the Constitution of Ukraine and laws of Ukraine, security and normalization of life, participation in combating sabotage and terrorist acts, prevention of humanitarian catastrophe in the area of anti-terrorist operation (Zhuravel, 2021: 68-69).

Generally speaking, the competence of MCAs can be represented as a set of activities that will include competence in the areas of planning and socio-economic development; budget and finance; property management; urban planning, housing and communal services, trade, consumer services, transport, communications and telecommunications; education, health, culture, physical education and sports and social protection; regulation of land relations, environmental protection and historical or cultural monuments; defense, national security and civil protection; ensuring law and order, protection of rights, freedoms and legitimate interests of citizens; resolution of organizational and representative issues and in the field of administrative-territorial organization. Consolidation of this competence in acts of administrative legislation is characterized by certain contradictions and gaps, which could be eliminated by supplementing the Law of Ukraine “On Military-Civil Administrations” with a number of flexible provisions that refer to the laws of Ukraine “On Local Self-Government” and “On local state administrations” (Svirina, 2019: 109).

Art. 5 of the Law on MCA, which regulates certain rights of administrations, provides in particular for a number of powers related to protecting civilians and providing for their basic rights. These include the powers to:

1. establish procedure for the use of storage facilities, structures and other facilities to protect the population, as well as to meet security needs;

2. organize evacuation of the population from places and areas dangerous to living, as well as evacuation of enterprises, institutions, organizations and property of important state, economic and cultural importance;
3. organize, if necessary, the standardized provision of the population with drinking water, food, basic necessities, medical supplies.

When we discuss the most effective (desired) mode of the MCA operation in any given territory, it is necessary to emphasize the following functions:

- 1) normalization of the living conditions of the civilian population, namely – the organization of food supply, medical care, construction and arrangement of temporary camps for displaced persons;
- 2) restoration of the functioning of public authorities in crisis areas;
- 3) restoration of destroyed or non-functioning infrastructure in the entrusted territory;
- 4) assistance or monitoring of humanitarian aid missions;
- 5) disarmament of all illegal military formations;
- 6) solving the problem of possessing a significant number of illegal firearms by the population;
- 7) assistance in the demining process;
- 8) providing opportunities for the movement of civilians in the territory of the relevant competence;
- 9) active struggle, first of all by means and resources of law enforcement bodies, with mass riots, banditry and crime in general;
- 10) professional training of personnel who can work effectively and interact in the conditions of JFO;
- 11) organization and holding of local elections in crisis areas;
- 12) conducting active informational and propaganda and patriotic-educational work among the local population.

As an example, dealing with illegal firearms possession by the population (clause 6 in the list) can correspond to the issue of smuggling from the temporary uncontrolled areas of Luhansk and Donetsk regions (Movchan *et al.*, 2021). This is especially relevant in view of the wide discussion in Ukrainian society regarding the need for the criminalization of commodity smuggling (Pidgorodynskiy *et al.*, 2021).

Thus, local and regional bodies of military-civilian legal regime really represent the state in the territories of military operations, exercise its

power, political will and protect the population, territorial integrity and sovereignty of the state through the outlined tasks. This is the most effective way to create most favorable conditions for the population living in the crisis area.

Officials of military-civilian administration units act on regularly basis as a link between the regular armed forces (law enforcement agencies) and civilians of the conflict zone and are primarily responsible for the information component of cooperation between the two sides. Public service professionals coordinate activities of military, governmental, non-governmental, international, charitable, religious and other organizations regarding provision of direct assistance and support to the affected population (Shevchenko, 2016).

Administrative functions of the MCA are primarily intended to support defense and security status on the territories affected by the hostilities (without violating military objectives of the Armed Forces in any given area), maintain public order, conduct educational work, organize and implement measures for mobilization training and civil defense, take necessary measures for the organization and protection of the state border; create appropriate conditions for the functioning of entry-exit checkpoints in the temporarily occupied territory of Ukraine; carry out systematic measures on military-patriotic education of the population. These and other related functions are prescribed in Art. 4 of the Law on MCAs.

Thus, MCA is endowed with a special purpose in order to determine main direction of its powers and does not perform the functions of local state administration and local governments only. The rather unique status of this institution is explained by the fact that it is a complex administrative structure, which combines both managerial and law enforcement functions. The key goal of such hybrid mode of functioning is providing or at least contributing to the regime of national security on any given territory of Ukraine.

Conclusions

Military-civil administration as a special type of state institution of a conditionally hybrid nature (according to its status and powers), responds to the current threats facing Ukraine in connection with the hybrid military conflict in eastern Ukraine.

Based on data from open sources, we can summarize: the current regulatory framework is very superficial, without proper detail, describes the relationship between the bodies (units) of the MCA and other governmental agencies. In practice, the level of intensity of such interaction differs in each given area of Luhansk and Donetsk regions.

The Law of Ukraine “On military-civil administrations”, discussed within this paper, though expected by its title to be one of the most important legislative pieces on CIMIC issues, does not effectively address the topic of civil-military cooperation. Under this Law, military-civil administrations basically represent a hybrid model of military-civil governance within specific Ukrainian territories directly or indirectly affected by the foreign military aggression.

Based on the key principle of the supremacy of civil society over the military, the discussed 2015 Law should be effectively renamed into the Law “On civil-military administrations” with a continued focus, potentially within a specially drafted chapter of the Law, on the military support of civil authorities and official public order rebuilding efforts in certain areas of Donetsk and Luhansk regions.

Preferably, amendments to the Law should reflect expansion of the powers of *civil-military administrations* towards closer operational and tactical cooperation with locally stationed military units. The new model should be based on the regular tripartite contact between the military, local community and regional (local) authorities.

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