

Legal Regulation of Training Territorial Defense Forces to Interact with Law Enforcement Agencies in a Case of Crisis Situations

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Abstract

The article aims to study the legal regulation of training territorial defense forces to interact with law enforcement agencies in case of crisis situations (in the example of Ukraine). Using techniques of formal-legal methods, analysis of legal acts, and abstract-logic methods, we studied the issues of legal regulation and the interaction of territorial defense forces with law enforcement agencies in case of crisis situations (in the example of Ukraine). Based on the results of the conducted study, it was offered to adopt a regulatory act, which will contain: competence, authorities and liability of law enforcement agencies and TDF in crisis situations; procedures of the interaction of TDF and law enforcement agencies in crisis situations; determination of crisis situations, interactions, methods of work, financing rules and other aspects of interaction. Recommendations formed in the work can be applied in the development of a legal basis for the interaction of TDF with law enforcement agencies in crisis situations.

Keywords: interaction, hybrid threats, crisis situations, TDF training, law enforcement agencies, legal regulation, territorial defense.

Introduction

In the background of the wide range of potential threats, present today, professional reaction to such situations is critical. Some crisis situations require prompt response and coordinated work of different agencies, as their scale exceeds the possibilities and means of regular rescue or law enforcement agencies (Konieczny, 2023). Moreover, new hybrid threats stipulated the necessity of creating new agencies that would be able to counteract such threats.

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The beginning of the hybrid war waged by the Russian Federation against Ukraine in 2014 sharpened the public discourse on territorial defense forces (hereinafter referred to as TDF) in the countries of Eastern Europe (Kazakova, 2011). TDF are part of the Armed Forces and, at the same time, a connecting link between military and civil structures, in particular law enforcement agencies. Equal TDF distribution should ensure the reaction to new modern threats, improve real possibilities of maintaining internal security, and aid society (Horyn, 2019; Szczurek et al., 2022). In 2016, the Ministry of Defense of Poland took measures that led to the creation of TDF. TDF troops were officially formed as the fifth type of the Armed Forces of Poland on January 01, 2017, according to the Law of November 16, 2016, and other acts.

The creation of TDF forces in Ukraine was driven by the need to prevent and counter external military threats at the level of territorial communities. The hybrid war by the Russian Federation prompted legislators to draft a special law on TDFs back in 2015, but their legalisation took place only in 2021. Over the years, Ukraine's TDF system has been formed as a component of the defence system, which includes a mandatory feature of territoriality. TDF began their way as volunteer battalions due to the hybrid invasion of Russia in the East of Ukraine in 2014. But in January 2022, when Russian troops were gathering on the borders of Ukraine, they were officially included in the Armed Forces of Ukraine (Hunko, 2023). These forces are light infantry, sometimes supported by vehicles and artillery of other brigades, but they do not have their own equipment (Dimich & Mishchyshyn, 2022).

In Ukraine, TD forces helped to relieve heavier formations by fighting heavy battles in key areas. Furthermore, interacting with other structures, they took main responsibility for border defense after the withdrawal of Russian forces from northern Ukraine in April 2022 and from Kharkiv Region in September 2022. Thus, it is worth recognising the role of TD forces in managing crisis situations and strengthening the resistance of society. At the same time, due to imperfections in Ukraine's legislation on TDF, problems arise concerning the interaction of this and other structures, particularly law enforcement agencies (Hunko, 2023; Kolyukh, 2022). The shortcomings of such interaction reduce the effectiveness of state actions in crisis situations, as police activities are related to ensuring public safety and order (Kyslenko et al., 2023). Moreover, the police is one of the participants in ensuring national security (Reznik et al., 2021). Therefore, the study of the issues of legal regulation of training territorial defense forces to interact with law enforcement agencies in case of crisis situations is important.

Literature Review

Specialised scientific research was not dedicated to legal regulation of training TDF to interact with law enforcement agencies in case of crisis situations. At the same time, researchers in Ukraine, Poland, and other countries regularly consider some aspects of this issue. In particular, in his study, Nikitin (2022) analysed the peculiarities of the special interaction of the National Police of Ukraine with other subjects of the security and defense sector, in particular TDP, under martial law.

The other study considers mechanisms of regulatory legal regulation of TDF in different countries (Yanyuk, 2019). Based on the experience of the USA, Great Britain, France, China and other countries, the author made conclusions on tasks of TDF in peacetime and times of war, their purpose, and functions.

The other work considers the basis and legislative principles of the functioning of the security and defense sector in Ukraine. This sector is mentioned not to be limited to separate institutions only but involves organisation and legal principles of their work. The authors define it as the system of measures for preventing aggression and response to it, emphasising the importance of diplomatic, economic and military aspects. It is concluded that the regulatory-legal framework of the sector of security and defense of Ukraine is formed by the laws on the National Security and Defense Council, on defense, on the Armed Forces and on the Security Service, which defines the basic principles and functions of these institutions (Beikun & Pryimak, 2021). Other researchers studied the regulatory-legal principles of the defense sector of Ukraine (Kolyukh, 2022; Beikun & Romashko, 2020). The role of law enforcement authorities in ensuring national defense was also the subject of the research (Makarchuk, 2021; Shevchenko, 2021).

Konieczny in his study (2023) concludes that TDF play a significant role in ensuring security and defense during mass disasters, such as natural catastrophes. Military personnel of these troops can provide aid and protect people, help liquidate the consequences of catastrophe, and ensure safety at the place of event. Rescue groups, acting as a part of these troops, play an important role, as they can act in any region in case of crisis situations (Konieczny, 2023).

Maziarz (2020) considers possibilities and threats within the context of the laws of the Republic of Poland in the fight against terrorism of June 10, 2016, and on amendments to the Law on the general obligation to defend the Republic of Poland and other legislative acts, designated for territorial defense forces and general security of the country. Using a comparative analysis of the mentioned legislative acts, the author defines the specifics of troops of territorial defense forces within the legal system of Poland and the general security system.

In the other study, the group of researchers (Nikitin et al., 2022) studies institutional, theoretical and methodological aspects of the activity of law enforcement agencies in ensuring the national and economic security of the country. The study is based on an interdisciplinary approach in legal science. The authors define the role of law enforcement agencies of Ukraine in ensuring security and making an analysis of legislation and its application in modern conditions (Nikitin et al., 2022).

The group of authors (Rusetskyi et al., 2020) studies the peculiarities and characteristics of administrative-legal regulation of the system of TDF in Ukraine. Proposals concerning the improvement of certain procedures of implementation and realisation of professional activity of subjects of defense policy and control over it were formed, and the importance of efficiency of administrative-legal support of their work was underlined. It was offered to make relevant changes to legislation to improve the quality of work of internal defense structures, improvement of motivation and stimulation system, which can be used for protection of the border and internal administrative-territorial units of Ukraine (Rusetskyi et al., 2020).

In his work, Hunko (2023) considers the peculiarities of the interaction of the Armed Forces of Ukraine with subdivisions of TDF and voluntary formations of territorial communities under conditions of aggression of the Russian Federation against Ukraine, as well as issues related to legislative regulation of this interaction. Defects in legislation concerning legal status and guarantees, as well as material-technical and financial provision of subdivisions of TDF and voluntary formations of territorial communities, were found to complicate their efficiency. Amendments to the legislation have a fragmented nature and do not solve the issue comprehensively.

Other researchers have considered the problems of interaction between the civilian and military sectors in the context of state security. Using general scientific methods of economic analysis and scientific knowledge, the authors substantiated the need to adhere to the principles of military mission priority (Shchokin et al., 2023).

Generally, legal regulation of training TDF to interact with law enforcement agencies in a case of crisis situations remains understudied. However, the more general aspects of these issues (legal principles of TDF, law enforcement bodies) have been studied in numerous scientific works.

Objectives

This article aims to study the legal regulation of training territorial defense forces to interact with law enforcement agencies in case of crisis situations (in the example of Ukraine).

Research questions

- determine the essence and purpose of interaction with law enforcement agencies in case of crisis situations;
- define the issues of legal regulation of training territorial defense forces to interact with law enforcement agencies in case of crisis situations (on the example of Ukraine)
- provide recommendations on improving legal regulation of training territorial defense forces to interact with law enforcement agencies in case of crisis situations.

Methods

Study Procedure

Within the study procedure, an analysis of regulatory legal and literature sources of the study was conducted. On the basis of the mentioned analysis, the issue of legal regulation of the interaction of TDF with law enforcement agencies. To deal with established issues, recommendations for the improvement of legal regulation of the mentioned interaction were formed. The study procedure can be formed with the help of the following scheme (Figure1).

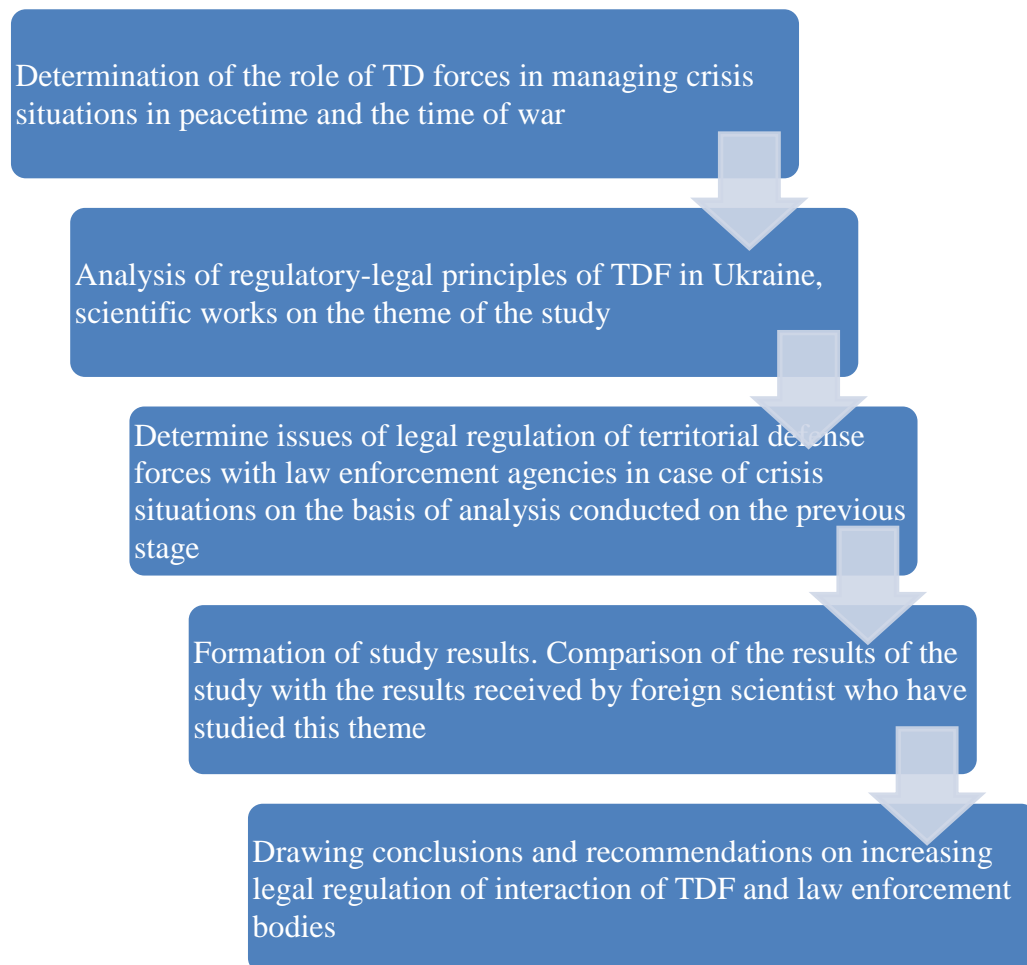


Figure 1. Scheme of the study.

Methods

The study uses several methods, such as formal legal, comparative, analysis of legal acts, and abstract-logic methods. Comparative and formal legal methods were used in the study of legal principles of TDF, in particular cooperation with law enforcement agencies. Particular attention is paid to special methods of scientific research, in particular methods of interpretation of legal norms to study the content of regulatory acts. The method of content analysis was used for the study of literature sources and aspects of the issues previously considered by scientists. The abstract-logic method was used to form theoretical generalisations and conclusions for the study. Using the comparative-legal method, peculiarities of legal regulation of TDF in some foreign countries

(Ukraine, Poland, etc.) were analysed. In particular, the role of the TDF was found to increase in these countries due to Russian aggression against Ukraine.

Each of the above methods cannot be considered absolute and has certain potential biases or limitations. At the same time, their systematic application allows to eliminate these factors. The use of methods was stipulated by a systemic approach, which enables studying established problems in the unity of their social content and legal form. Using the dialectic method, the issues of legal regulation of the process of interaction of the TDF with civil structures were considered.

Sampling

For conducting this study, regulatory acts, that present the legal basis for the functioning of TDF in Ukraine and Poland, in particular, the Constitution of Ukraine (1996), Law of Ukraine “On foundations of national resistance” (2021), and Ustawa z dnia 16 listopada 2016 r. o zmianie ustawy o powszechnym obowiązku obrony Rzeczypospolitej oraz niektórych innych ustaw (2016), were analysed. The main hypothesis put forward in the paper is that TD forces are extremely important in managing crisis situations in case of their established cooperation with law enforcement agencies. Their participation accelerates the work and brings benefits related to rapid arrival at the event site, which in turn is defined by the territoriality of the formation. At the same time, imperfections in the legal regulation of such interaction reduce the efficiency of the activity of TDF.

Results

According to para. 3 of article 3 of the Law of Ukraine “On foundations of national resistance» (2021), the tasks of TDF include the following (Figure 2).

As we can see, the essence and number of tasks of the TDF stipulate interaction with non-military structures, including law enforcement agencies. This, in particular, relates to ensuring public safety, restrictions of vehicle and pedestrian traffic, etc. This situation is typical for other countries as well. In particular, in Georgia, during peacetime, the TD forces cooperate with civilian structures to deal with the consequences of emergencies. In the United States, National Guard units also cooperate with civilian agencies in responding to natural disasters, such as hurricanes, floods and earthquakes.

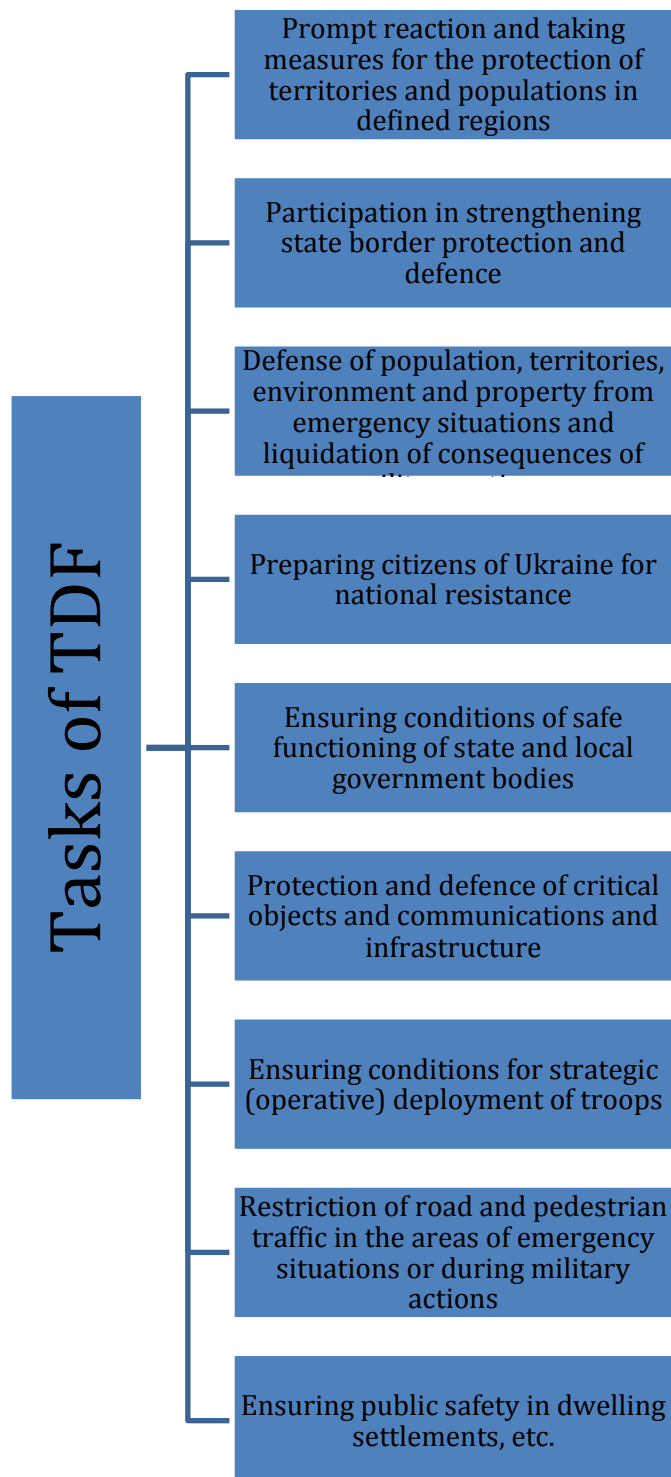


Figure 2. Tasks of TDF

At the same time, analysis of the profile legislation of Ukraine showed that the issue of legal regulation of the interaction of TDF with law enforcement agencies remains undefined and requires further regulation. The applicable law “On foundations of national resistance” contains only reference to such interaction. For example, according to part 1 of article 17 of the mentioned law, the National Police of Ukraine, National Guard of Ukraine, Security Service of Ukraine and others maintain cooperation during training and performance of tasks of territorial defense. At the same time, the law does not provide an explanation of the essence of such interaction. There is no regulation of such interaction or restriction of competence of different bodies, such as those of TDF troops and law enforcement agencies, while performing territorial defense tasks. This stipulates the necessity of signing the by-law, which would regulate the following:

- the procedure and forms of interaction of the TDF with law enforcement agencies and other civil structures in different crisis situations;
- determine competencies and tasks of different bodies in such interaction;
- separately determine the procedure of interaction of the TDF with law enforcement agencies in peacetime and during military actions.

TD forces are assigned to participate actively in a military conflict with an enemy. At the same time, they should be ready to perform non-military tasks, such as cooperation with police, border authorities, fire departments, medical services and civil defense. The main activity of the troops lies in their weapons, skills, and training of soldiers. TD forces can ensure support in state management in the following directions:

- evacuation of the population;
- rescue works;
- threat prevention;
- provision information on territory pollution;
- providing food and humanitarian aid;
- protection of infrastructure facilities.

They can also perform tasks related to traffic regulation, the protection of public order, cultural heritage, and critical facilities. During military actions, an opponent can try to paralyse the work of governmental bodies, including the main and reserve positions of heads of regions and local government bodies. Thus, the role of territorial defense forces is important for the protection and defense of different objects, in particular places of strategic reserve storage.

TD forces can perform tasks related to police support, such as helping in the evacuation of people and protecting property. Police, in turn, can support TDF troops in holding defense measures, providing information on the opponent's movement and assisting in counteracting acts of sabotage (Figure 3). The role of

border authorities is important in border areas, where they can conduct intelligence, control places of illegal migration, and help with patrolling. In case of necessity, they can assist in the evacuation of the population and strengthen defense authorities.

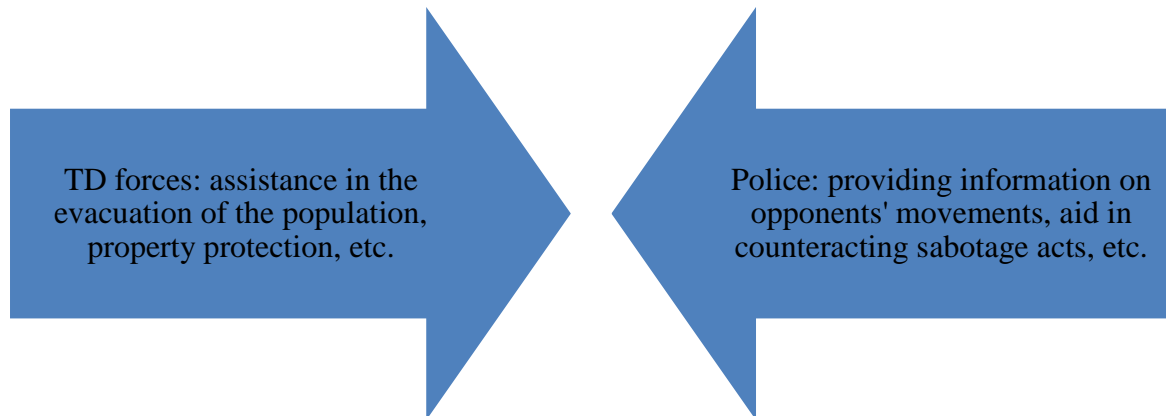


Figure 3. Interaction of TD forces and police during military actions

By the nature of their activity, TDF troops are obliged to interact with other subjects, among which law enforcement agencies have the leading position. It is worth adding that in peacetime, the commander of TDF troops is authorised to interact with law enforcement agencies in the following events:

- natural disaster and liquidation of its consequences;
- the occurrence of a land, sea or air disaster;
- necessity of humanitarian aid provision;
- conducting military training.

TD forces can cooperate with police, voluntary fire brigades, forest guards, railroad guards, border authorities, and medical services. The decision on the organisation to cooperate with depends on the nature of the threat. All or most essences may be used on a large scale with different threats.

In such a way, there is a need to draft a by-law, which would regulate the interaction of TDF with law enforcement agencies and other elements of the non-military system on the level of country, region, and local communities. The indicated by-law would create the legal framework for such interaction (Figure 4).

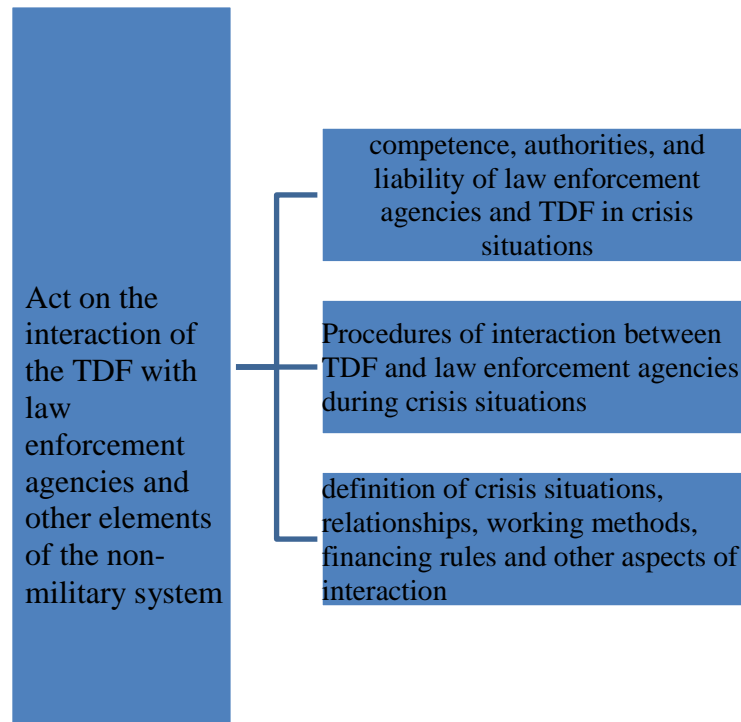


Figure 4. The content of the by-law, which would regulate the interaction of TDF with law enforcement agencies and other elements of the non-military system (author's proposals).

In our opinion, adopting such a by-law will contribute to the creation of a transparent system of regulatory acts and internal legislation, regulating the interaction of TDF and law enforcement and other non-military structures. Provisions of the future by-law should contribute to common interaction and not complicate it, but also consider principles of personnel control and unity of actions. Preserving unity should enhance the efficiency of operations and clearly determine the tasks during the interaction, as well as better use the potential of separate objects.

Discussion

The issue of legal regulation of training TDF to interact with law enforcement agencies in case of crisis situations has been almost unconsidered in scientific literature. At the same time, the studies which indirectly touch on the issue contain similar ideas. In our work, we noted that the issue of legal regulation of the interaction of TDF with law enforcement agencies remains undefined and requires further regulation. Considering the issues of interaction of the National Police of Ukraine with other subjects of the security and defense sector, in

particular TDP, under martial law, Nikitin (2022) expressed a similar idea. The author believes that the legal regulation of the interaction of subdivisions of the police with separate subjects of the security and defense sector remains undefined and requires further study.

Many authors have noted the important role of TD forces in crisis situation management. Thus, Kler et al. (2019) note that TD forces have a name that reflects their nature and designation the most. A Swedish researcher (Umland, 2019) underlines the essential military role irregular military forces had in Ukraine in 2014. Another researcher Plavitu (2019) notes that modern crisis phenomena in the sphere of security in Eastern Europe have stipulated a serious discussion in Romania concerning the necessity of recreation, training, and provision of the National Reserve Forces, which are assigned to manage the so-called territorial defense concept. The author sees the role of the TDF in supporting and strengthening acts of the forces of active defense by taking particular measures and ensuring timely and effective operation conduction to prevent and eliminate consequences of unexpected aggression against the country. The mentioned thoughts, in general, correspond to the ideas presented in this study.

The issue of legal regulation of TDF and other parts of the Defense Forces of Ukraine was considered in a number of scientific publications (Yarema, 2024; Prokhorenko, 2019). The authors discussed the issues in this sphere, and the imperfectness of some regulations (Prokhorenko & Bogutskyi, 2019). In particular, the lack of effective mechanisms of state regulation of TDF as a part of the military organisation of Ukraine is noted to have a negative influence on ensuring defense capability (Yaniuk, 2019; Kolodii, 2019). We completely agree with this idea. However, the issues of legal regulation of the interaction of TDF and law enforcement agencies remain outside the attention of the authors as a rule.

Several works of Polish researchers were dedicated to the issue of the interaction of TD troops with non-military structures. In their work, authors (Szkoluda & Strzoda, 2020) make conclusions similar to those made in our study. The authors emphasise that the essence of the interaction of different subjects lies in the arrangement of their acts to achieve the common aim, preserving autonomy for each party of this act. The other author Maziarz (2020) defines the specifics of the activity of the troops of territorial defense forces within the legal system of Poland and the general security system.

Thus, the authors mostly share similar ideas in scientific studies on themes, similar to the theme of this study. At the same time, it is worth noting that some authors had negative opinions on subdivisions, which laid the basis of the modern TDF system in Ukraine (Umland, 2019; Litvak, 2014).

Conclusions

In such a way, the issue of legal regulation of the interaction of TDF with law enforcement agencies remains undefined and requires further regulation. To improve the legal regulation of the interaction of TDF with law enforcement agencies in case of crisis situations, we recommend adopting a regulatory act that would contain a legal framework for such interaction. As a consequence of the existing legal framework, the adoption of such an act will eliminate the existing uncertainty in the legal regulation of the interaction of TROs with law enforcement agencies. Provisions of the future by-law should contribute to common interaction and not complicate it but also consider principles of personnel control and unity of actions. Preserving unity should enhance the efficiency of operations and clearly determine the tasks during the interaction, as well as better use the potential of separate objects.

Recommendations

Thus, the legal act on the interaction of TDF with law enforcement agencies should contain the following:

- competence, authorities and liability of law enforcement agencies and TDF in crisis situations;
- procedures of interaction of TDF and law enforcement agencies in crisis situations;
- definition of crisis situations, interrelations, methods of work, rules of financing and other aspects of interaction.

The recommendations mentioned above can be applied in the development of a legal basis for the interaction of TDF with law enforcement agencies in case of crisis situations.

Perspectives of further studies can be proposals on some provisions of the proposed act, in particular the procedure and forms of interaction of TDF with law enforcement agencies and other civil structures in different crisis situations, competencies, and tasks of different bodies during such interaction, etc.

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