

**LEGAL REGULATION OF THE TRANSITION TO MILITARY
SECURITY IN THE POSTWAR PERIOD: A MODEL
OF EXPECTATIONS BASED ON UKRAINE'S EXPERIENCE
IN REPELLING ARMED AGGRESSION**

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INTRODUCTION

The civilizational choice of the Ukrainian people and the subsequently declared path of Euro-Atlantic integration have always been guided by the course of building a state governed by the rule of law in Ukraine, which, regardless of any life circumstances, will ensure effective protection of human rights and freedoms, the rule of law in all fields of public life and will remain the main guideline for state building. In this regard, in particular, Pavlo Bogutskyi emphasized that “the axiology of national security is multifaceted, but demonstrates the presence of a person and his or her needs in the center of the value reality”¹.

Accordingly, already on February 24, 2022, on the first day of repulsing the full-scale armed aggression, on the basis of the proposal of the National Security and Defense Council of Ukraine and in accordance with the legislation of Ukraine, Presidential Decree No. 64/2022 not only recorded Ukraine's being “in wartime”², which, in accordance with Article 4 of the Law of Ukraine “On Defense of Ukraine”, started the countdown of the period of the state's being in a state of war that will end “...on the day and time of the end of the war”³, but also the Verkhovna Rada of Ukraine approved proposals to introduce the right to Waiting for the Decree of the President of Ukraine No. 64/2022 not only recorded Ukraine's staying “in wartime conditions”, which, according to Article 4 of the Law of Ukraine “On Defense of Ukraine”, started the countdown of the period of the state's stay in a state of war that will end “...on the day and time of the termination of the war”⁴, but also the

¹ Богуцький П.П. Право національної безпеки та військове право України в умовах збройної агресії рф проти України. *Українське право*. 11.12.2023. URL: <https://ukrainepravo.com/scientific-thought/pravova-pozytsiya/pravo-natsionalnoyi-bezpeky-ta-viyskove-pravo-ukrayiny-v-umovakh-zbroynoyi-agresiyi-rf-protu-ukrayin/>.

² Про введення воєнного стану в Україні: *Указ Президента України* від 24.02.2022 № 64/2022. URL: <https://zakon.rada.gov.ua/laws/show/64/2022#Text>

³ Про оборону України: *Закон України* від 06.12.1991 № 1932-XII. URL: https://zakon.rada.gov.ua/laws/show/1932-12?find=1&text=війн#w1_1.

⁴ Про затвердження Указу Президента України «Про введення воєнного стану в Україні»: *Закон України* від 24.02.2022 р. № 2102-IX. URL: <https://zakon.rada.gov.ua/laws/show/2102-20#Text>

Verkhovna Rada of Ukraine approved proposals to introduce the legal regime of martial law throughout Ukraine. Expecting a transition to military security in the post-war period as a result of Ukraine's repulsion of armed aggression, Ukrainian society and the international community as a whole are now actually developing a new model of legal regulation of such a transition, which will ensure the rule of law in the post-war period.

1. Forecast of the State Policy in the Field of National Security and Defense of Ukraine in the Postwar Period

Based on the legal construction laid down in the current version of the Law of Ukraine “On Defense of Ukraine”, as well as in accordance with Article 1 of the Law of Ukraine “On the Legal Regime of Martial Law”, the legal regime of martial law is usually in force in wartime – “a special legal regime introduced in case of armed aggression or threat of attack, threat to the state independence of Ukraine, its territorial integrity and provides for the provision of the relevant state authorities, military command, military administrations and local self-government bodies”⁵.

Without defining the post-war period, the legislator in Section II of the Law of Ukraine “On National Security of Ukraine” applies, on the basis of the legislative definition of the legal basis of the relevant state policy, “the principles that determine the procedure for the formation of state policy in the field of national security and defense”⁶, fundamental national interests of Ukraine, threats to the national security of Ukraine, as well as relevant priorities of the state policy in the areas of national security and defense, the construction of reasonable discretion in relation to national security. Thus, the entities of ensuring the national security of Ukraine in the postwar period should also direct their actions to achieve (ensure) 1) state sovereignty and territorial integrity, democratic constitutional order, prevention of interference in the internal affairs of Ukraine; 2) sustainable development of the national economy, civil society and the state to ensure the growth of the standard of living and quality of life of the population; 3) integration of Ukraine into the European political, economic, security, legal space, membership in the European Union and the North Atlantic Treaty Organization, development of equal and mutually beneficial relations with other states⁷.

Summarizing the above, it should be assumed that the state policy in the field of national security of Ukraine and its content in the postwar period

⁵ Про правовий режим воєнного стану: *Закон України* від 12.05.2015 № 389-VIII. URL: <https://zakon.rada.gov.ua/laws/show/389-19/ed20240518#Text>.

⁶ Про національну безпеку України: *Закон України* від 21.06.2018 № 2469-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

⁷ Про національну безпеку України: *Закон України* від 21.06.2018 № 2469-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

should be formed by actors of its provision based on their general understanding of the doctrinal provisions of the state policy in general, the scope of the relevant “subject matter” that has been preserved or formed in the postwar period, as well as the limits of regulation of public relations in the interests of national security of Ukraine determined by law.

In general, the formation and implementation of certain state policies should remain within the powers of central executive bodies (ministries) that manage the system of relevant state authorities, in the forms and within the limits predefined in the current legislation and national traditions (customs) of managing people, their groups and territories of their residence, social laws, etc.

At the same time, contemporary social and behavioral sciences focus on the categories of interconnection of “conscious leadership” with the formalization of managerial (administrative) actions in constitutional laws and rules, acts of interpretation of laws, the category of “legal regulation” (social phenomenon, process) and other grounds for transferring the internal political process outside. As an example, we can cite the position of O. Demianchuk: “public policy is a system of actions, regulatory measures, laws, and financial priorities in a particular direction, proclaimed by a public authority or its representatives”⁸ and L. Pal: “public policy is a direction of action or refraining from it, chosen by public authorities to solve a certain or a set of interrelated problems”⁹.

However, when addressing the issue of ensuring national security in the post-war period on the basis of the outlined national interests and countering certain threats, the State will be authorized to extend for a certain period of time the restriction of certain rights and freedoms, making a “temporary derogation” from the previously proclaimed obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms¹⁰ in the post-war period, with a justified (on the measures taken) informing the Secretary General of the Council of Europe. It is believed that the construction “measures taken” will characterize the issues of the post-war period and the transition to military security in the post-war period, which allows us to consider it as the basis for the emerging model.

⁸ Дем'янчук О. П. Державна політика та публічна політика: варіант перехідного періоду. URL: http://www.library.ukma.kiev.ua/e-lib/nz/nzv18_2000_polityk/05_demyanchuk_op.pdf.

⁹ Пал Л. А. Аналіз державної політики. пер. з англ. І. Дзюби. К. : Основи, 1999. с. 22

¹⁰ Щодо відступу від зобов'язань за Конвенцією про захист прав людини і основоположних свобод. *Урядовий портал. Міністерство юстиції України*. 29 квітня 2024 року. URL: <https://www.kmu.gov.ua/news/shchodo-vidstupu-vid-zoboviazan-za-konventsiiu-pro-zakhyst-prav-lyudny-i-osnovopolozhnykh-svobod>.

Thus, the state policy of Ukraine in the field of national security should not be perceived as a stable phenomenon at the end of wartime, but should be interpreted as a dynamic environment that in the postwar period is guided by the principle: “the benchmark of human development on the way to a civilized society is the achievement of a state in which a person is not threatened by any danger – neither social, nor natural, nor man-made, nor military in origin” and which ensures the achievement of national interests integrated into the further development of democracy, ensuring the rights and freedoms of citizens, inextricably linked to improving the quality and efficiency of the entire area of national security and defense of Ukraine.

At the same time, in the postwar period, as a rule, there is a deepening of the economic crisis, disintegration processes that destabilize the state system, increasing contradictions between the interests of different social groups and segments of the population, creating preconditions for the emergence of various threats and crises of a social, military, man-made and natural nature, etc. that exacerbate the operational situation in which the security and defense sector of the country has to operate while solving the relevant tasks ¹¹, first of all, to restore law and order. Additional tasks will also arise, which will be manifested in an uncontrolled increase in the number of organizational and legal measures, an increase in the “workload” of an individual employee with the amount of work that is not typical for him/her, the need to introduce methods of “direct” or “manual” organization of management of security and defense units, which, in aggregate, will be reflected in the forms of state policy in the field of national security of Ukraine and relevant documents for planning the development of the security and defense sector of Ukraine. We consider this to be one of the reasons for the formation of a similar Strategic Defense Bulletin ¹² in 2021, which can be characterized as a document of transition from the “Anti-Terrorist Operation” to the stabilization elements of the “Joint Forces Operation”.

As we have already noted in the publication “Creation and Functioning of the System of Law Enforcement Forces in the Context of Ensuring the State Security of Ukraine”, the corresponding aggravation of the problems of ensuring the national security of Ukraine in its main areas is always due to the emergence of new and increasing levels of traditional threats to national interests, corruption, legal nihilism of the majority of the population, organized crime, illegal migration, socio-economic and political instability,

¹¹ Комісаров О.Г., Покайчук В.Я. Створення і функціонування системи сил охорони правопорядку в розрізі забезпечення державної безпеки України. *Вісник Львівського університету. Серія міжнародні відносини*. 2016. Випуск 38. С.219

¹² Про рішення Ради національної безпеки і оборони України від 20 серпня 2021 року "Про Стратегічний оборонний бюлетень України": *Указ Президента України* від 17.09.2021 № 473/2021. URL: <https://zakon.rada.gov.ua/laws/show/473/2021#n17>.

confrontation between different branches of government, etc.¹³. These are the threats that we consider to be the most destructive to Ukraine's national security in the postwar period. It should be added that the problems of their neutralization by security forces, even in the “rear regions” in the context of repulsing armed aggression, are primarily due to the lack of proper legal support, problems with the organization and coordination between law enforcement and defense areas, the lack of a single research and production center in the relevant field of knowledge and science, errors in systemic functioning, which, regardless of the current legal regime for ensuring national security, should provide for universal interdisciplinary integration¹⁴.

At the same time, their activities in the postwar period will be regulated by legislative acts that already do not fully take into account the specifics of the conditions of armed confrontation as the main form of defense of the country, which was widely used in the conditions of armed confrontation, and will need to be improved.

In the above-mentioned work, we considered such threats to national security as arms proliferation, terrorism, transnational organized crime, illegal migration, escalation of interstate and civil conflicts, which in the postwar period will cover new regions or states. Along with them, we also considered regional threats to international security, which, by their negative consequences, may have the potential to be global in the postwar period: dangerous trends in the revision of national borders outside the norms of international law and through the resumption of military intervention, as well as multi-vector geopolitical influences on Ukraine in the context of ineffective guarantees of its security, “frozen” conflicts, as well as critical external dependence of the national economy and budget after active hostilities.

In our opinion, problems of preserving the post-Soviet wartime system of national government, distortion of democratic procedures, their replacement by “activist-type” procedures, etc. may become no less urgent in the postwar period, and there is a risk of their occurrence. These factors have already led to the existing problems and armed conflict and in the strategic perspective may aggravate the existing real threats to the national sovereignty and territorial integrity of Ukraine, lead to the emergence of qualitatively new threats, etc.

At the same time, we should take into account the position of the legislator, who in part one of Article 3 of the Law of Ukraine “On National Security of

¹³ Комісаров О.Г., Покайчук В.Я. Створення і функціонування системи сил охорони правопорядку в розрізі забезпечення державної безпеки України. *Вісник Львівського університету. Серія міжнародні відносини*. 2016. Випуск 38. С. 219-225.

¹⁴ Комісаров О.Г., Покайчук В.Я. Створення і функціонування системи сил охорони правопорядку в розрізі забезпечення державної безпеки України. *Вісник Львівського університету. Серія міжнародні відносини*. 2016. Випуск 38. С. 219-225.

Ukraine” actually divided the state policy in the field of national security and defense of Ukraine into four “entities of jurisdiction”: 1) Protection of life and dignity, constitutional rights and freedoms, safe conditions for human and citizen life; 2) Protection of democratic values, welfare and conditions for sustainable development of society; 3) Protection of the constitutional order, sovereignty, territorial integrity and inviolability of the territory of the state; 4) Protection of the environment from emergencies¹⁵. It should also be noted that in this case, the legislator does not define what the protection will be against (except for the fourth area) and does not link it to the existence of threats to national security. In addition, parts 4 and 5 of this article divide the single area of national security and defense into separate components (branches and fields), within which threats to the national security of Ukraine and the relevant priorities of state policy are presented as categories of the same order, but different in content, which, in turn, taking into account the legislative definition of the concept of “national security”, allows for the bifurcation of the field of national security and defense of Ukraine in the postwar period by means of state policy of national interests of the postwar period.

The legislator, dividing the security and defense sector into four interrelated components (security forces; defense forces; military-industrial complex; citizens and public associations voluntarily participating in ensuring national security¹⁶) in part one of Article 12 of the Law of Ukraine “On National Security of Ukraine”, in part two of this article, resorts to an exhaustive list of its personnel without taking into account the appropriate distribution. Another problem in the context of the post-war period is the recognition in part three of this Article of the existence of a number of state bodies and local self-government bodies that perform their own functions of ensuring national security outside the security and defense sector, but only in cooperation with the bodies that are part of the security and defense sector and are listed in part two. Thus, the legislator indicates that the state policy in the field of national security (as exemplified by these bodies) is a component of other state policies and, at the same time, in the postwar period becomes a tool of additional control over its implementation by the components of the security and defense sector, whose interaction is a prerequisite not only for such implementation in the postwar period, but also for its formation by the relevant ministries or approval by the government in general (through approval instruments in particular).

¹⁵ Про національну безпеку України: *Закон України* від 21.06.2018 № 2469-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

¹⁶ Про національну безпеку України: *Закон України* від 21.06.2018 № 2469-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

In general, the legal regulation of the transition to military security in the post-war period in the works of most contemporary authors should reflect the unity, interdependence and interaction of the components of the country's security and defense sector, national security and military security, the possibility of its implementation within the legal regime of martial law, emergency qualified response to emergencies, against the background of solving the problem of Ukraine's security guarantees. However, there are still factual studies of certain practical aspects of service, service-combat or combat activities of certain structural elements of the security and defense sector without taking into account their interconnectedness and scale outside of peacetime or a special period for the creation and functioning of the system of state policy of national security of Ukraine.

Analyzing the scientific research in the security area on the personal composition of actors of the formation and implementation of the relevant state policy in the postwar period, we should agree with the opinion of V. Lazutko that there is no established position on the content of the policy itself, as well as the attempts of the vast majority of authors to “operate” in the formulation of the purpose of such actors with their own interpretation of the “methods” of their activities¹⁷. On the other hand, it should be agreed that military activity in the postwar period will remain one of the “areas that are essential for ensuring national security, for protecting national interests from military threats”¹⁸, which is confirmed by the relevant current “legislative definition”.

In our opinion, for Ukraine, the issue of the content of national security will subsequently affect the content of the state policy of the “recovery period” as: meeting the need to create favorable conditions for further development of Ukrainian society and the state; overcoming the permanent financial and economic crisis; restoration of violated human and civil rights and freedoms in the state and abroad; counteracting the growth of organized crime and corruption; combating the spread of the threat of terrorism, uncontrolled proliferation of weapons and explosions.

In our opinion, it is also an axiom that the defense forces play and will play a leading role in this system (until the transition from the “recovery period” to the “peacetime” regime) as a component of the security and defense sector authorized to formulate the content of the state policy of countering military threats, including those present in other regimes of national security.

¹⁷ Лазутко В.І. Сили охорони правопорядку: проблемні питання визначення та характеристики. *Форум права*. 2012. №3. С. 357

¹⁸ Богуцький П.П. Право національної безпеки та військове право України в умовах збройної агресії РФ проти України. *Українське право*. 11.12.2023. URL: <https://ukrainepravo.com/scientific-thought/pravova-pozytsiya/pravo-natsionalnoyi-bezpeky-ta-viyskove-pravo-ukrayiny-v-umovakh-zbroynoyi-agresiyi-rf-proty-ukrayin/>.

Therefore, it should be assumed that adaptability, flexibility, and development of a wide range of capabilities to counter military threats to national security should be the basis for the formation and implementation of the relevant state policy in the field of national security in the postwar period. With regard to the content of such a state policy, one should take into account the generalization of the authors of the monograph “State Policy of Ensuring National Security of Ukraine: Main Directions and Features of Implementation” (Lviv, 2020), who emphasized that “the state in the process of exercising its functions of ensuring national security should: monitor, conduct objective and comprehensive analysis and forecasting, observation and systematic assessment of the state of national security and threats and dangers to the national security of Ukraine; to organize the effective work of the state system of national security to implement a set of measures aimed at preventing, detecting and neutralizing threats and dangers to the national security of Ukraine; to control the design, creation, development, use, export and import of advanced technologies, tools and systems of national security through their certification and licensing activities; to pursue the necessary protectionist policy towards producers of security technologies, tools and systems in Ukraine and abroad and to take measures to protect the domestic market from the penetration of low-quality security products; to facilitate the provision of public administration entities with proper access to global security resources; to formulate and implement state policy in all areas of national security of Ukraine; to organize the development of state programs to ensure the national security of Ukraine ¹⁹.

Developing this assumption, attention should be paid to determining the content of the powers to formulate and implement the state policy of the national security entities listed in part two of Article 12 of the Law of Ukraine “On National Security of Ukraine”, as well as the President of Ukraine and the Government to approve strategic planning documents in the security and defense sector of the country. Thus, analyzing the content of the National Security Strategy, it should be emphasized that the term “state policy” is not defined in it, but is used to describe the threats “...lack of a coherent information policy of the state, weakness of the system of strategic

¹⁹ Криштанович М.Ф., Пушак Я.Я., Флейчук М.І., Франчук В.І. Державна політика забезпечення національної безпеки України: основні напрямки та особливості здійснення : *монографія*. Львів : Сполом, 2020. 418 с. URL: <https://dspace.lvduvs.edu.ua/bitstream/1234567890/2802/1/%d0%b4%d0%b5%d1%80%d0%b6%d0%b0%d0%b2%d0%bd%d0%b0%20%d0%bf%d0%be%d0%bb%d1%96%d1%82%d0%b8%d0%ba%d0%b0%20%d0%bf%d1%83%d1%88%d0%b0%d0%ba.pdf>.

communications”²⁰ (paragraph 20 of Section 2 of the Strategy); referring to “...the lack of efficiency of state bodies...”²¹ as a source of threats to Ukraine's independence, sovereignty and democracy (paragraph 22 of Section 2 of the Strategy).

In addition, the authors of the Strategy in Section 3 define “The main directions of foreign and domestic policy activities of the state to ensure its national interests and security”²², which can be considered a statement of the content and objectives of the relevant state policy in the postwar period before the development of the relevant document. In particular, attention should be drawn to the provisions of paragraph 41, which, “...to ensure its national interests, in particular, the cessation of Russian aggression, full restoration of territorial integrity, protection of rights, freedoms and legitimate interests of citizens of Ukraine and business entities...”²³, Ukraine defined the task of negotiating with the Russian Federation through the mediation of partners from among the EU and NATO member states, as well as the OSCE, which, with the change in the security environment in September 2022, the state partially abandoned “stating the impossibility of negotiations with the President of the Russian Federation V. Putin”²⁴.

²⁰ Про рішення Ради національної безпеки і оборони України від 14 вересня 2020 року "Про Стратегію національної безпеки України": *Указ Президента України* від 14.09.2020 № 392/2020. URL: https://zakon.rada.gov.ua/laws/show/392/2020?find=1&text=%D0%B4%D0%B5%D1%80%D0%B6%D0%B0%D0%B2%D0%BD#w1_1.

²¹ Про рішення Ради національної безпеки і оборони України від 14 вересня 2020 року "Про Стратегію національної безпеки України": *Указ Президента України* від 14.09.2020 № 392/2020. URL: https://zakon.rada.gov.ua/laws/show/392/2020?find=1&text=%D0%B4%D0%B5%D1%80%D0%B6%D0%B0%D0%B2%D0%BD#w1_1.

²² Про рішення Ради національної безпеки і оборони України від 14 вересня 2020 року "Про Стратегію національної безпеки України": *Указ Президента України* від 14.09.2020 № 392/2020. URL: https://zakon.rada.gov.ua/laws/show/392/2020?find=1&text=%D0%B4%D0%B5%D1%80%D0%B6%D0%B0%D0%B2%D0%BD#w1_1.

²³ Про рішення Ради національної безпеки і оборони України від 14 вересня 2020 року "Про Стратегію національної безпеки України": *Указ Президента України* від 14.09.2020 № 392/2020. URL: https://zakon.rada.gov.ua/laws/show/392/2020?find=1&text=%D0%B4%D0%B5%D1%80%D0%B6%D0%B0%D0%B2%D0%BD#w1_1.

²⁴ Про рішення Ради національної безпеки і оборони України від 30 вересня 2022 року «Щодо дій України у відповідь на спробу Російської Федерації анексувати території нашої держави, з метою гарантування безпеки євроатлантичного простору, України та відновлення її територіальної цілісності»: *Указ Президента України* від 30 вересня 2022 року № 679/2022. URL: <https://www.president.gov.ua/documents/6792022-44249>.

2. Legal and Organizational Principles of Comprehensive Defense of the Country as a Baseline for Transition to Legal Regulation of Military Security in the Postwar Period

Ukraine, while gradually increasing its capabilities to counter both armed aggression and the aggressive Russian hybrid threat in general, has not yet resolved the full range of legal and organizational problems of building a comprehensive defense system and developing the security and defense sector in the postwar period. In this regard, M. Pashkov noted back in 2019 that: “the actions of official Kyiv lack strategic approaches, complexity, efficiency and consistency”²⁵.

In addition, there is no doubt that the whole range of security issues will remain relevant for Ukraine in the postwar period, and further development and overall success of the state is impossible without solving the whole range of problems of reforming the system of responding to threats to national security by all components of the security and defense sector, in particular through the organization of comprehensive defense and the realization of defense potential.

Defense of Ukraine, according to Article 1 of the Law of Ukraine “On Defense of Ukraine”, is a system of political, economic, social, military, scientific, scientific and technical, informational, legal, organizational and other measures of the state to prepare for armed defense and its protection in the event of armed aggression or armed conflict²⁶.

At the same time, this legislative definition is fully used in the construction and application of doctrinal provisions of both the legal theory of the use of forces and tools of the government in confrontation with other states, and the theories of state governance, armed struggle, military art, game and operations theories. The latter are reflected in the “formula for repulsing armed aggression” enshrined in Article 4 of the law. Thus, in the event of armed aggression against Ukraine or a threat of an attack on Ukraine, the President of Ukraine must first of all make several decisions without taking into account their sequence, which is specified in the text of Article 4 of the Law of Ukraine “On Defense of Ukraine”: on general or partial mobilization; on the introduction of martial law in Ukraine or its separate localities; on the use of the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine²⁷.

²⁵ Pashkov M. The war in the Donbass: realities and prospects for settlement. URL: http://razumkov.org.ua/uploads/article/2019_Donbas.pdf.

²⁶ Про оборону України: Закон України від 06.12.1991 № 1932-XII. URL: https://zakon.rada.gov.ua/laws/show/1932-12?find=1&text=війн#w1_1.

²⁷ Про оборону України: Закон України від 06.12.1991 № 1932-XII. URL: https://zakon.rada.gov.ua/laws/show/1932-12?find=1&text=війн#w1_1.

The following actions of the President of Ukraine are the basis for the realization of the defense potential by all components of the security and defense sector, as well as by national security entities that are not part of it but have certain competence to function in cooperation with the components of the security and defense sector. In this case, we are talking about the bifurcation of the role of the President of Ukraine as the Supreme Commander-in-Chief of the Armed Forces of Ukraine and the role of the Head of State. Thus, after submitting one or all of the above decisions to the Verkhovna Rada of Ukraine for approval or approval, “...state authorities and military command and control bodies, without waiting for the declaration of a state of war, take measures to repel aggression, as well as initiate military operations, including special operations (intelligence, information and psychological, etc.) in cyberspace”²⁸.

An exception to this sequence is the actions of state authorities and military command and control bodies that take measures to repel aggression in the form of organized defense and within the limits of a pre-determined defense potential (capabilities) before the Verkhovna Rada of Ukraine approves or adopts one or all of the above decisions, as well as the President of Ukraine adopts these decisions.

In exercising the status of the Head of State, the President of Ukraine decides to submit to the Verkhovna Rada of Ukraine a proposal to “declare a state of war”²⁹, which, if “declared,” will, accordingly, lead to the establishment of the “moment of declaration of a state of war,” the beginning of hostilities and the beginning of “wartime,” which will end on the day and time of termination of the state of war.

Thus, the defense of Ukraine, in its narrow sense in relation to the postwar period, covers measures before “the moment of declaration of the state of war” and after “termination of the state of war”. An indirect argument in favor of this interpretation is the provisions of part three of Article 4 of the Law of Ukraine “On Defense of Ukraine”, according to which “the actual outbreak of hostilities leads to the onset of wartime”³⁰.

On the other hand, in a broad sense, “defense of Ukraine” should cover the periods before the beginning of wartime, wartime measures, as well as measures after the end of hostilities aimed at countering military threats to the national security of Ukraine (post-war period). Under this interpretation, it

²⁸ Про оборону України: *Закон України* від 06.12.1991 № 1932-ХІІ. URL: https://zakon.rada.gov.ua/laws/show/1932-12?find=1&text=війн#w_1_1.

²⁹ Про оборону України: *Закон України* від 06.12.1991 № 1932-ХІІ. URL: https://zakon.rada.gov.ua/laws/show/1932-12?find=1&text=війн#w_1_1.

³⁰ Про оборону України: *Закон України* від 06.12.1991 № 1932-ХІІ. URL: https://zakon.rada.gov.ua/laws/show/1932-12?find=1&text=війн#w_1_1.

would be appropriate to use the categories “comprehensive”, “all-encompassing” or “all-round” to characterize Ukraine's defense.

It should also be noted that only a state of war can be considered a national security regime that excludes the use of elements of other regimes, while the introduced martial law regime only uses a number of limitations of legal and organizational capabilities of other regimes with the purpose justified in the decision to introduce it. Therefore, we assume that the legal and organizational framework of the state of war and martial law are different, and their legal regulation is one of the tasks of strategic planning of the security and defense sector development. An indirect argument in favor of this conclusion is the mechanisms (methods) of “declaration”, “introduction”, and “cancellation” of these states separately defined by the Constitution of Ukraine.

It should be taken into account that the National Security Strategy separately, in Chapter 4, defines the principles of the development of defense potential and the defense tasks of reforming and developing the security and defense sector, in particular, pointing out in paragraph 60 that: "Ukraine will strengthen the combat potential of the Armed Forces of Ukraine and other defense forces by: increasing the level of combat readiness and combat capability; improving the quality and intensity of training of troops (forces); transformation of professional culture on the basis of doctrinal approaches and principles of command and control, training, education of NATO; improvement and development on the basis of modern technologies of control systems, telecommunications, intelligence, logistics; professionalization of military service, development of territorial defense and service in reserve; modernization of the system of mobilization training and mobilization, as well as pre-prescription training and military-patriotic education of youth; improvement of legal, material, psychological and social conditions of service; equipping with new, in particular high-tech, samples of weapons and military equipment; strengthening the interaction of all security and defense sector bodies to perform common tasks; effective implementation of the state policy of ensuring equal rights and opportunities for women and men " ³¹.

Regarding the tasks, A. Ivanova, analyzing the previous documents of strategic planning, states that: "Over the years of the existence of the Ukrainian state, work has been carried out to reform the security and defense sector, an idea has been formed about the security sector system, its

³¹ Про рішення Ради національної безпеки і оборони України від 14 вересня 2020 року "Про Стратегію національної безпеки України": *Указ Президента України* від 14.09.2020 № 392/2020. URL: https://zakon.rada.gov.ua/laws/show/392/2020?find=1&text=%D0%B4%D0%B5%D1%80%D0%B6%D0%B0%D0%B2%D0%BD#w1_1.

components, mechanisms of interaction within the system" ³². It also emphasized the problems that have not yet been resolved – the lack of control over the processes of development, the unsystematic and irrational distribution of resources, the possibility of significant contradictions, the confrontation of law enforcement agencies.

On the other hand, to solve these problems, contemporary science has outlined the theoretical and legal foundations of strategic planning for the development of defense potential and the necessary capabilities of the security and defense sector, identified the need for a rational distribution of tasks and responsibility in specific areas ³³. Thus, even in the National Security Strategy in the 2015 edition, it was noted that: "issues related to" urgent "threats to national security, as well as" existing "and" potential "threats are subject to solution" ³⁴. In view of this, it should be recognized that the completion of the reform of strategic planning for comprehensive defense and the organization of national resistance to armed aggression regarding the threats to the national security of Ukraine determined by the Military Security Strategy is becoming one of the ways to solve these problems and one of the capabilities to counter armed aggression in general.

Even in the Strategic Defense Bulletin of 2016, the concept of "capability" was developed in order to resolve armed conflicts by military tools, thus covering "quantitative and qualitative indicators characterizing the ability of the components of the defense forces to fulfill their tasks for the defense of the state and repelling an armed attack with available state capabilities" ³⁵. At the same time, as the authors of the monograph "The Security and Defense Sector of Ukraine: Theory, Strategy, Practice" note, their analysis revealed the lack of a common vision of the problem of building defense capabilities and ways to solve it ³⁶. They supported the position set out in the Australian Armed Forces manual regarding the definition of capability as "conditioned by certain

³² Ivanova A.E. Security and defense sector in the present. Current state and prospects of development of the security sector of Ukraine: public-private aspects: col. sciences. (Kharkiv, April 16, 2015). H., 2015. p. 34

³³ Sector of Security and Defense of Ukraine: Theory, Strategy, Practice: Monograph / FV Saganyuk, VS Frolov, OV Ustimenko, MM Lobko and others. K. : Academic Press, 2017. 180 p.

³⁴ On the decision of the National Security and Defense Council of Ukraine "On the Strategy of National Security of Ukraine": *Presidential Decree* No. 287/2015 of May 26, 2015. URL: <http://zakon3.rada.gov.ua/laws/show/287/2015/paran2#n2>.

³⁵ On the decision of the National Security and Defense Council of Ukraine of May 20, 2016 "On the Strategic Defense Bulletin of Ukraine": *Presidential Decree* of June 6, 2016 No. 240/2016. URL: <http://zakon4.rada.gov.ua/aww/show/240/2016>.

³⁶ Sector of Security and Defense of Ukraine: Theory, Strategy, Practice: *Monograph* / FV Saganyuk, VS Frolov, OV Ustimenko, MM Lobko and others. K.: Academic Press, 2017. 180 p.

resources and the ability to achieve measurable results when performing a task under given conditions in accordance with certain standards" ³⁷.

It should be noted that most of the "standards" mentioned in this source and other similar documents should be critically analyzed regarding threats to military security in the post-war period and coordination of the algorithms of warfare in general. In their present state, they may be those set out in paragraph 3.4. Strategic defense bulletin: application (implementation) of the joint operational concept of the defense forces, focused on countering the aggressive actions of the Russian Federation, taking into account the development of forms and methods of armed struggle, which will be compatible with the principles and standards of NATO member states; implementation of effective joint leadership of the defense and military control forces in the Armed Forces of Ukraine; constant situational awareness and achievement of a common understanding by all components of the defense forces of existing and predictable threats in the military area at the strategic, operational and tactical levels in order to carry out proactive actions and adequate response to counter the aggression of the Russian Federation and its allies; adaptive and sustainable architecture of the system of control of actions of united groups of troops (forces), which provides for the authority for commanders to make independent decisions within the framework of the plan of the high command, conducting autonomous and asymmetric actions using automated control systems of troops (forces), forces and tools of intelligence, weapons (fire damage), resources, logistics, medical and other types of support; modular organizational structure of forces, which will ensure a rapid change in the operational structure of groups (headquarters of the operational and tactical levels will be able to act independently with a different set of subordinate military units and subunits); strategic (operational) mobility of troops (forces) that can quickly move to threatening directions, concentrate efforts in the necessary place at a certain time and disperse to avoid defeat by enemy means; autonomy of actions of combat units (combat tactical groups) during maneuvering defense, long network-centric combat operations and raid operations behind enemy lines; unpredictability and asymmetry of the actions of the defense forces, which will level the enemy's military superiority; synergy of defense capabilities of the state in the political, diplomatic, information, economic and military areas; innovativeness due to the readiness to act outside the box in conditions of fleeting changes in the situation and the emergence of new non-traditional threats and the ability to achieve strategic effects by tactical actions; the dynamism of organizational changes in the defense forces, their resilience and ability to act in concert with security forces

³⁷ Defense Capability Development Manual. Canberra: Defense Publishin Service, Department of Defense, 2006. URL: <http://www.defence.Gov.au/publications/dcdm.pdf>.

and state bodies that do not belong to the defense forces and security forces; conducting by the defense forces of coordinated military (combat) operations in the air, on land, at sea, in the information space, cyberspace as a component of the information space and using the results of space activities in the interests of state defense ³⁸.

On the other hand, the analysis of NATO doctrinal documents shows that the structures of the ministries of defense, the general staffs of most countries, as well as government practices of crisis response use capability-based technology ³⁹, a feature of which is the development of capabilities to effectively counter threats and risks of both military and non-military nature, taking into account the likely scenarios for the development of crisis situations in the long term, in particular, 10-15 years.

As stated in the final provisions of the Military Security Strategy, it takes into account the report on the results of the defense review conducted by the Ministry of Defense of Ukraine ⁴⁰ and is the basis for the development of the Strategic Defense Bulletin of Ukraine, the Defense Plan of Ukraine, as well as state target programs and other programs aimed at ensuring the implementation of state defense policy, which... " are developed in order to strengthen the state's defense capability, in particular, the development of command and control systems for troops and weapons, naval capabilities, air defense of Ukraine, aviation, missile forces and artillery, intelligence systems, electronic warfare, unmanned and robotic systems, improvement of mobilization systems, territorial defense of Ukraine and resistance movement"⁴¹.

At the same time, the authors of the Strategy give their own interpretation and assessment of "comprehensive defense" as the most rational approach, which will ensure the military security of Ukraine, create favorable conditions for the restoration of its territorial integrity and help to achieve a safer future through the integrated use of the full potential of the state and society to realize the sovereign right of Ukraine to self-defense, the introduction of modern forms and methods of using the defense forces, the organization of territorial defense of Ukraine and the resistance movement, deterring the aggressor,

³⁸ Про рішення Ради національної безпеки і оборони України від 20 серпня 2021 року "Про Стратегічний оборонний бюлетень України": *Указ Президента України* від 17.09.2021 № 473/2021. URL: <https://zakon.rada.gov.ua/laws/show/473/2021#n17>.

³⁹ Planning Based On Crisis Response Capabilities That Threaten Ukraine's National Security. *ARCTIC Journal*. 2019. Vol. 72, No 11. P. 64 DOI: <https://www.arcticjournal.org>

⁴⁰ Про звіт щодо результатів проведення оборонного огляду Міністерством оборони України: *Рішення РНБО* від 24.03.2020. URL: <https://zakon.rada.gov.ua/laws/show/n0003525-20#n4>.

⁴¹ Pashkov M. The war in the Donbass: realities and prospects for settlement. URL: http://razumkov.org.ua/uploads/article/2019_Donbas.pdf.

maintaining stability and ensuring cooperation in preparation for the comprehensive defense of Ukraine, repulsing and deterring armed aggression against Ukraine, eliminating the armed conflict and during the reconstruction period after the end of hostilities, as well as coordination of Ukraine's defense measures with international partners ⁴².

Since 2019, from the beginning of a new cycle of defense planning in Ukraine, and the approval in 2021 of a new edition of the Strategic Defense Bulletin, the following has been defined: the main directions of implementation of Ukraine's military policy in the context of Ukraine's comprehensive defense; a perspective model of the Armed Forces of Ukraine and other components of the defense forces and requirements for its construction, mission and vision of the defense forces of 2030; the main capabilities of the defense forces that need to be achieved; strategic goals for the development of the defense forces for the period until 2025, the main tasks and the expected results of their achievement ⁴³.

Accordingly, already on the basis of the Strategic Defense Bulletin of Ukraine in the 2021 edition, the following are being developed and implemented: state target programs aimed at developing the components of the defense forces and solving problems of ensuring the state's defense, in particular, equipping them with modern weapons and military (special) equipment, creating the necessary stocks of material and technical means, implementation of other measures to strengthen the state's defense capability; other program, planning documents and projects on the development of capabilities of the defense forces ⁴⁴, which will be relevant in the post-war period.

Along with this, the provisions of these programs and other planning documents are directed and adjusted by the decisions of the Military Cabinet of the National Security and Defense Council of Ukraine ⁴⁵ (acted until 24.02.2022) and the Headquarters of the Supreme Commander-in-Chief,

⁴² Про рішення Ради національної безпеки і оборони України від 25 березня 2021 року "Про Стратегію воєнної безпеки України": *Указ Президента України* від 25.03.2021 № 121/2021. URL: https://zakon.rada.gov.ua/laws/show/121/2021?find=1&text=%D0%BF%D0%BE%D0%BB%D1%96%D1%82%D0%B8%D0%BA#w1_1.

⁴³ Про рішення Ради національної безпеки і оборони України від 20 серпня 2021 року "Про Стратегічний оборонний бюлетень України": *Указ Президента України* від 17.09.2021 № 473/2021. URL: <https://zakon.rada.gov.ua/laws/show/473/2021#n17>.

⁴⁴ Про рішення Ради національної безпеки і оборони України від 20 серпня 2021 року "Про Стратегічний оборонний бюлетень України": *Указ Президента України* від 17.09.2021 № 473/2021. URL: <https://zakon.rada.gov.ua/laws/show/473/2021#n17>.

⁴⁵ Про рішення Ради національної безпеки і оборони України від 18 лютого 2015 року "Про додаткові заходи щодо зміцнення національної безпеки України": *Указ Президента України* від 12.03.2015 № 139/2015. URL: <https://zakon.rada.gov.ua/laws/show/139/2015#n11>.

which was established in accordance with Article 8 of the Law of Ukraine "On the Defense of Ukraine" on February 24, 2022 in connection with the armed aggression of the Russian Federation against Ukraine, threatening its state independence and territorial integrity, to ensure the strategic leadership of the Armed Forces of Ukraine, other military formations and law enforcement agencies, based on the proposal of the National Security and Defense Council of Ukraine of February 24, 2022 "On the Headquarters of the Supreme Commander-in-Chief"⁴⁶.

It should also be noted that in accordance with the decision of the National Security and Defense Council of Ukraine of September 13, 2017 "On the Headquarters of the Supreme Commander-in-Chief"⁴⁷ in the period from September 2017 to February 2022, the issue of organizing comprehensive defense, its strategic planning, control of measures, etc., was determined both by the Regulation on the War Cabinet of the National Security and Defense Council of Ukraine⁴⁸ and by the Regulation on the Headquarters of the Supreme Commander-in-Chief. In particular, the tasks of the Military Cabinet included the formation (discussion) of proposals on: the use of forces and tools of the security and defense sector of Ukraine to repel armed aggression against Ukraine; management of strategic deployment, preparation and use of forces and tools of structures of the security and defense sector of Ukraine for strategic actions, operations, combat (special) actions; organization of interaction of forces and tools of structures of the security and defense sector of Ukraine, as well as with central (local) executive authorities and local self-government bodies during the performance of their tasks in a special period; determining the needs for personnel, weapons, military equipment, material and technical, energy, financial, information and other resources, food, land and water plots, communications, property for the proper fulfillment by the structures of the security and defense sector of Ukraine of the tasks of ensuring the defense of the state, preparation and use of reserves (replenishment), as well as the need for military assistance to Ukraine from foreign states and international organizations and the procedure for its use to repel aggression; translation of the national economy to function in a special period; making decisions on general or partial mobilization, demobilization; other issues to

⁴⁶ Про утворення Ставки Верховного Головнокомандувача: *Указ Президента України* від 24.02.2022 № 72/2022. URL: <https://zakon.rada.gov.ua/laws/show/72/2022#Text>.

⁴⁷ Про рішення Ради національної безпеки і оборони України від 18 лютого 2015 року "Про додаткові заходи щодо зміцнення національної безпеки України": *Указ Президента України* від 12.03.2015 № 139/2015. URL: <https://zakon.rada.gov.ua/laws/show/139/2015#n11>.

⁴⁸ Про рішення Ради національної безпеки і оборони України від 18 лютого 2015 року "Про додаткові заходи щодо зміцнення національної безпеки України": *Указ Президента України* від 12.03.2015 № 139/2015. URL: <https://zakon.rada.gov.ua/laws/show/139/2015#n11>.

ensure the strategic leadership of the Armed Forces of Ukraine, other military formations and law enforcement agencies in a special period ⁴⁹.

Separately, it is necessary to take into account powers of the Military Cabinet to consider draft decisions (plans) on the use of forces and tools of structures of the security and defense sector of Ukraine, decisions (plans) of the commanders of the formed groups of troops (forces) on the preparation and conduct of operations, combat (special) actions for submission by the National Security and Defense Council of Ukraine to the President of Ukraine of the relevant proposals ⁵⁰.

Returning to the content of the Strategic Defense Bulletin in the 2021 edition, we note that it establishes the definition of the terms "comprehensive defense" as an integrated use in multidimensional space throughout Ukraine of the potential of the state and society in order to resist the enemy by containing it, sustainability and interaction of all institutions within the state and with international partners, using modern forms and methods of using the defense and security forces in compliance with the principles and norms of international law in conditions of impossibility of achieving military parity with the enemy to prevent the escalation of the military conflict and restore the territorial integrity of Ukraine within internationally recognized borders ⁵¹, as well as the "capability of the defense forces" – "the ability to achieve the desired result during the execution of defense tasks in certain conditions in accordance with certain scenarios of actions and using available resources" ⁵².

At the same time, the Strategic Defense Bulletin, implementing the provisions of the Constitution of Ukraine, the laws "On the Defense of Ukraine," "On the Foundations of National Resistance," National Security Strategy of Ukraine, Military Security Strategy of Ukraine, The report on the results of the defense review by the Ministry of Defense of Ukraine, forms the legal and organizational foundations for the acquisition by the central executive authorities, other state bodies necessary institutional capacities for timely and organized mobilization, meeting the needs of the defense of the

⁴⁹ Про рішення Ради національної безпеки і оборони України від 18 лютого 2015 року "Про додаткові заходи щодо зміцнення національної безпеки України": *Указ Президента України* від 12.03.2015 № 139/2015. URL: <https://zakon.rada.gov.ua/laws/show/139/2015#n11>.

⁵⁰ Про рішення Ради національної безпеки і оборони України від 18 лютого 2015 року "Про додаткові заходи щодо зміцнення національної безпеки України": *Указ Президента України* від 12.03.2015 № 139/2015. URL: <https://zakon.rada.gov.ua/laws/show/139/2015#n11>.

⁵¹ Про рішення Ради національної безпеки і оборони України від 20 серпня 2021 року "Про Стратегічний оборонний бюлетень України": *Указ Президента України* від 17.09.2021 № 473/2021. URL: <https://zakon.rada.gov.ua/laws/show/473/2021#n17>.

⁵² Про рішення Ради національної безпеки і оборони України від 20 серпня 2021 року "Про Стратегічний оборонний бюлетень України": *Указ Президента України* від 17.09.2021 № 473/2021. URL: <https://zakon.rada.gov.ua/laws/show/473/2021#n17>.

state and protecting its territory from possible aggression and effective management of defense resources.

Analyzing the organizational and legal principles of comprehensive defense on the example of the Strategic Defense Bulletin of Ukraine, we will highlight the main organizational measures for the post-war period: the development of the Perspective Model of the Armed Forces of Ukraine and other components of the defense forces; determination of requirements for the perspective structure, composition, basic capabilities and other key quantitative and qualitative indicators of the defense forces; determination of indicators of the real state of the defense forces by means of a defense review; analysis of the indicators of the defense forces regarding the mission and vision of the defense forces of the 2030 model; the development of existing and the formation of promising capabilities (operational, combat, special) of the defense forces in accordance with certain strategic goals for the development of the defense forces, taking into account requirements based on the principles and standards adopted in the armed forces of NATO member states.

A separate organizational measure for the post-war period should be considered the construction of a system of joint leadership of the defense and military control forces in the Armed Forces of Ukraine in accordance with the principles and standards used in NATO member states with the use of: separation of functions for the formation of state policy in the field of defense from its implementation, a clear delineation of powers, responsibilities and accountability between the leadership of the Ministry of Defense of Ukraine and the Armed Forces of Ukraine, clarification of functions and tasks for the Ministry of Defense of Ukraine and the Armed Forces of Ukraine; differentiation of responsibility and accountability between the military command and control bodies of the Armed Forces of Ukraine of strategic and operational levels, management bodies of other components of the defense forces; introduction of a clear hierarchy of military management with the provision of the principle of separation of the functions of generating troops (forces) from their use and taking into account national peculiarities in protecting the sovereignty, territorial integrity and inviolability of Ukraine.

Organizational and staff transformation of the system of joint management of the forces of defense and military management should ensure in the post-war period the provision of the Commander of the Armed Forces of Ukraine (joint forces) powers in terms of strengthening its role in determining the direction of development of troops (forces) taking into account the experience of managing their use, and the Armed Forces of Ukraine and other components of the defense forces should receive an integrated system of combined leadership and military control at the strategic, operational and

tactical levels based on a single protected information environment of the defense forces, capable of providing covert control of troops (forces) in an automated mode.

According to the position of the Ministry of Defense of Ukraine, in order to ensure the defense capability of the state by determining the priorities and directions for the development of the defense forces, their capabilities, weapons and military equipment, infrastructure, training of troops (forces), as well as the development of appropriate concepts, programs and plans, taking into account real and potential threats in the military area and financial and economic capabilities of the state, defense planning is carried out⁵³.

At this, the process of defense planning is carried out taking into account the main characteristics and content of the process of defense planning in the member states of the North Atlantic Treaty Organization (NATO) and the requirements of the legislation of Ukraine and provides for the determination of priorities and directions for the development of the defense forces, determination of requirements for capabilities, distribution of capabilities by components of the defense forces and determination of development tasks, implementation of development tasks, assessment of results⁵⁴. Separately, it should be noted that by introducing defense planning, the Ministry of Defense of Ukraine, in paragraph 5 of the relevant Order, combines the capability-based planning method with the threat-based planning method, orienting the use of the first threat and directing the development of the capabilities of the defense forces for the long term.

A similar conclusion is also made in the Methodological Recommendations for Defense Planning based on capabilities in the Ministry of Defense of Ukraine and the Armed Forces of Ukraine, where the corresponding combination is designated as "technology" – the main method of defense planning⁵⁵. In particular, the Recommendations provide for the use in planning the activities of any structure of common terminology, principles and goals, the procedure for the application of certain procedures, monitoring and development of capabilities.

⁵³ Про затвердження Порядку організації та здійснення оборонного планування в Міністерстві оборони України, Збройних Силах України та інших складових сил оборони: *Наказ Міноборони України* від 22.12.2020 № 484. URL: <https://zakon.rada.gov.ua/laws/show/z0196-21#Text>.

⁵⁴ Про затвердження Порядку організації та здійснення оборонного планування в Міністерстві оборони України, Збройних Силах України та інших складових сил оборони: *Наказ Міноборони України* від 22.12.2020 № 484. URL: <https://zakon.rada.gov.ua/laws/show/z0196-21#Text>.

⁵⁵ Defense Planning Recommendations Based on Capabilities in the Ministry of Defense of Ukraine and the Armed Forces of Ukraine, approved by the Minister of Defense of Ukraine 12.06.2017. URL: http://www.mil.gov.ua/content/other/Recommendationson_CBP_120617.pdf.

Another important aspect of the introduction of "technology" for the post-war period is the gradual transition to an appropriate methodology in the process of defense planning. Capability-based planning involves conducting a functional analysis, during which the functions and tasks to be performed are transformed into requirements for capabilities on the basis of which their creation, maintenance and development are planned ⁵⁶. At the same time, the Ministry of Defense of Ukraine insists on focusing efforts not on the creation of new organizational structures, but on the development of the capabilities of the forces (troops) to effectively perform certain tasks ⁵⁷.

Accordingly, fully agreeing with these statements, it should be noted that such an approach may well be extended in the post-war period to the entire security and defense sector, and the created "groups of functional capabilities" become uniform for it as a whole. Therefore, the central executive authorities defined in the Law of Ukraine "On National Security of Ukraine" should in the post-war period consolidate such unity of approaches in the relevant normative legal acts, and the National Security and Defense Council of Ukraine and the Ministry of Defense of Ukraine should initiate the development of a joint normative legal act that would contain a single description of the functions (capabilities) as integrated security categories, including taking into account the activities of various supranational security entities (EU, NATO, etc.). It should also be emphasized that each defined functional groups of capabilities during the analysis should be detailed, in particular, this applies to the levels of management (command), grouping (formation of subgroups) of capabilities, identifying individual measures for their maintenance, updating (modernization).

The assigned tasks require solving the issue of "capabilities" of the security and defense sector as a whole, security and defense forces separately, individual components of the security and defense sector, individual units and individual servicemen or law enforcement officers. At the same time, as noted by both domestic and foreign experts ⁵⁸, the "capabilities" themselves have certain properties, such as complexity, versatility, adaptability, weak formalizability.

⁵⁶ Defense Planning Recommendations Based on Capabilities in the Ministry of Defense of Ukraine and the Armed Forces of Ukraine, approved by the Minister of Defense of Ukraine 12.06.2017. URL: http://www.mil.gov.ua/content/other/Recommendationson_CBP_120617.pdf.

⁵⁷ Defense Planning Recommendations Based on Capabilities in the Ministry of Defense of Ukraine and the Armed Forces of Ukraine, approved by the Minister of Defense of Ukraine 12.06.2017. URL: http://www.mil.gov.ua/content/other/Recommendationson_CBP_120617.pdf.

⁵⁸ Gapichenko VV Planning is opportunity-based. The Navy in the context of the practical aspects of defense initiatives. URL: <http://defpol.org.ua/site/index.php/uk/archive/defense/oglyad/27592010-08-12-09-46-58>.

A unit (element, component) of the security and defense forces or a set of forces and means confirms the ability to perform certain tasks (to ensure the achievement of certain strategic and operational goals) under certain conditions, resource provision and in accordance with established standards.

In view of the above-mentioned, the basic legal and organizational principles of comprehensive defense as the initial state of transition to ensuring military security in the post-war period should include: assessment of the security environment in the post-war period, determination of the principles, goals and main tasks of the state policy in the field of defense of Ukraine, priorities and directions of development of the security and defense sector, taking into account real and potential threats to national security, demographic, financial and economic capabilities of the state; determining in the post-war period the requirements for the capabilities, structure, number of personnel of military formations and law enforcement agencies, quantitative and qualitative indicators of weapons and military (special) equipment, other types of logistics, military (special) infrastructure facilities, the level of training of personnel; assessment of the state of readiness of the security and defense forces in the post-war period to perform assigned tasks (assessment of existing capabilities for performing tasks in all defined scenarios), as well as the results of the implementation of measures for their development in the previous period; formation in the post-war period of a comprehensive document on the development of capabilities and the need for expenditures of the State budget for the development of these capabilities, risk assessment; planning of resource support for the defense forces in the post-war period (formation of proposals for the state defense order, planning of purchases of products, works and services); planning of mobilization training activities in the components of the security and defense sector in the post-war period; organization of implementation of tasks and activities of programs and plans, assessment of the state of achievement of capabilities.

At this, the classification of capabilities will remain expedient with the allocation of three main groups: operational capabilities, combat capabilities, special capabilities. When responding to threats to national security in the post-war period, operational and special capabilities will be crucial.

Further regulatory support and detailing of capabilities in the relevant laws are required, while the authorized bodies must implement standards that are specific to the structural unit (element) of each type. In particular, given the position of the Ministry of Defense of Ukraine, each structural unit (element) of the defense forces should "get" more than one combat (special) capability,

and each capability should be implemented by more than one structural unit (element) ⁵⁹.

When planning in the post-war period, forces and means should also be defined as necessary (capabilities that are included in the General Catalog of the capabilities of the body (subdivision) and must be constantly available to the relevant chief (commander) at a certain time and place to perform tasks to respond to threats to national security in a particular environment with the desired result (effect)), available (capabilities that are available in the relevant chief (commander) to perform tasks, but may not be sufficient to achieve the desired result (effect)) or critical (capabilities that are absolutely necessary to achieve the desired result (effect)) response to crisis situations that threaten national security, the relevant body (unit) and require the creation (development) and priority content).

3. Measures of repulsing aggression, which were taken by public authorities and military authorities before the war and remain relevant in the post-war period

In order to prevent armed aggression and armed conflict, ensure national interests and implement its own military policy, Ukraine, observing the norms of responsible and cooperation-based security behavior, participates in international security systems and international defense cooperation on the basis of international treaties of Ukraine and in the manner and under the conditions determined by the legislation of Ukraine ⁶⁰. In particular, ensuring the possibility of advance preparation for the armed conflict and/or repulsing the armed aggression against Ukraine in 2019, the Law of Ukraine "On Defense of Ukraine" was amended to organize the defense of the state by supplementing Article 1: "Ukraine's defense plan is an integral part of defense planning, containing a set of documents, which determine the content, volume, performers, order and timing of political, economic, social, military, scientific, technical, informational, legal, organizational, other measures of the state to prepare for armed protection and its protection in case of armed aggression or armed conflict " ⁶¹, as well as the definition of powers of the President of Ukraine in organizing the defense of the country.

⁵⁹ Defense Planning Recommendations Based on Capabilities in the Ministry of Defense of Ukraine and the Armed Forces of Ukraine, approved by the Minister of Defense of Ukraine 12.06.2017. URL: http://www.mil.gov.ua/content/other/Recommendationson_CBP_120617.pdf.

⁶⁰ Про оборону України: Закон України від 06.12.1991 № 1932-XII. URL: https://zakon.rada.gov.ua/laws/show/1932-12?find=1&text=війн#w1_1.

⁶¹ Про внесення змін до Закону України "Про оборону України" щодо організації оборони держави: Закон України від 20.09.2019 № 133-IX. URL: <https://zakon.rada.gov.ua/laws/show/133-20#Text>.

At the same time, most of these measures relate to "peacetime," which allows us to note the regularity (planning) of these measures, as well as their implementation at all levels (stages) of strategic and current planning in the security and defense sector of Ukraine in accordance with part three of Article 25 of the Law of Ukraine "On National Security of Ukraine" (long-term (more than five years), medium-term (up to five years) and short-term (up to three years) ⁶²). In particular, short-term planning involves the annual development of plans for the maintenance and development (activities) of the components of the security and defense sector, the main indicators for the procurement of goods, works and services for defense purposes for closed purchases (for a three-year period), which determine the tasks for the implementation of long-term and medium-term planning documents ⁶³.

Direct planning of defense measures involves the development and approval of a state defense plan, as well as the development of plans that come from it with the subsequent introduction of them into operation as a means of responding to the state's scenarios in the second type. An example of this is the decision of the National Security and Defense Council of Ukraine "On the enactment of the Plan of Defense of Ukraine and the Consolidated Plan of Territorial Defense of Ukraine" from 23.00 hours on February 24, 2022 in full according to the scenario of the first "Escalation by the Russian Federation of armed aggression against Ukraine, armed aggression by other states or coalitions of states – full-scale use of military force against Ukraine through military operations with decisive goals, which can be accompanied by information campaigns, information and psychological operations, cyber operations and special operations against Ukraine, as well as the blockade of its ports, coast, airspace " ⁶⁴.

In accordance with this decision, in accordance with the laws of Ukraine "On the Defense of Ukraine," "On the Foundations of National Resistance" of the Cabinet of Ministers of Ukraine... " entrusted, within its competence, to ensure the adoption of urgent measures aimed at the implementation of the plan of defense of Ukraine and the Consolidated plan of territorial defense of Ukraine; To the Ministry of Defense of Ukraine – to organize interdepartmental coordination and interaction on the implementation of measures of the defense plan of Ukraine; military command (Commander-in-Chief of the Armed Forces of Ukraine, Commander-in-Chief of the Territorial

⁶² Про національну безпеку України: *Закон України* від 21.06.2018 № 2469-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

⁶³ Про національну безпеку України: *Закон України* від 21.06.2018 № 2469-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

⁶⁴ Про введення в дію плану оборони України та Зведеного плану територіальної оборони України: *Рішення РНБО* від 24.02.2022. URL: <https://zakon.rada.gov.ua/laws/show/n0033525-22#n2>.

Defense Forces of the Armed Forces of Ukraine, commanders of types and individual types of troops (forces) of the Armed Forces of Ukraine, commanders (chiefs) of military command and control bodies, commanders of formations, military units of the Armed Forces of Ukraine and other military formations formed in accordance with the laws of Ukraine) together with the Ministry of Internal Affairs of Ukraine, other state authorities, local self-government bodies within the limits of authority – to introduce and implement the measures envisaged by the Consolidated Plan of Territorial Defense of Ukraine " ⁶⁵.

The procedure for developing a defense plan for Ukraine was approved by the Cabinet of Ministers of Ukraine ⁶⁶. The structure of the defense plan is determined by the President of Ukraine ⁶⁷, according to which the Cabinet of Ministers of Ukraine with the participation of the Security Service of Ukraine, the Foreign Intelligence Service of Ukraine and the National Bank of Ukraine in 2021 developed its content (approved at a meeting of the National Security and Defense Council of Ukraine ⁶⁸).

We would like to draw your attention to the fact that by putting into effect the State Defense Plans and the Consolidated Plan of Territorial Defense, the National Security and Defense Council of Ukraine has determined the terms of their implementation, which amounted to 90 days for the Consolidated Plan of Territorial Defense of Ukraine, demanding to return to the requirements of the laws of Ukraine "On the Defense of Ukraine," "On the Foundations of National Resistance," as well as "On Mobilization and Mobilization Training" to set deadlines, preceding the beginning of hostilities and the time allotted for the mobilization deployment of defense forces.

Article 3 of the Law of Ukraine "On Defense of Ukraine" provides for the implementation of preparations for defense in peacetime (without defining other regimes for ensuring national security and without designating "peacetime" as the corresponding regime), however, no deadlines have been established regarding the measures and competence of entities of ensuring national security for their implementation.

⁶⁵ Про введення в дію плану оборони України та Зведеного плану територіальної оборони України: *Рішення РНБО* від 24.02.2022. URL: <https://zakon.rada.gov.ua/laws/show/n0033525-22#n2>.

⁶⁶ Про затвердження Порядку розроблення плану оборони України: *Постанова Кабінету Міністрів України* від 22.07.2020 № 636. URL: <https://zakon.rada.gov.ua/laws/show/636-2020-%D0%BF#Text>.

⁶⁷ Про структуру плану оборони України: *Указ Президента України* від 03.03.2020 № 61/2020. URL: <https://zakon.rada.gov.ua/laws/show/61/2020#Text>.

⁶⁸ РНБО під головуванням Президента затвердила План оборони України та ухвалила рішення про застосування санкцій. *Офіційне інтернет-представництво Президента України*. 15 жовтня 2021 року. URL: <https://www.president.gov.ua/news/rnbo-pid-golovuvannyam-prezidenta-zatverdila-plan-oboroni-uk-71117>.

The Law of Ukraine "On National Security of Ukraine" also does not contain certain terms of preparation for defense, but fixes the methodology of comprehensive reviews of the security and defense sector (Article 27), which can be considered a preparatory stage for the defense of the state (repulsing armed aggression) by developing and further implementing a promising model of the security and defense sector, in particular, by consistently building up the capabilities of its components to perform assigned tasks and the formation of combat-ready ones on this basis, mobile, well-trained, well-resourced security and defence forces, able to protect the national interests of Ukraine and take an active part in international activities to maintain peace and security⁶⁹. So, all measures of the preparatory stage can be combined around building up the capacity of the components of the security and defense sector to influence the source of threats (military threats).

Accordingly, the main purpose of the preparatory stage at the tactical level is to provide commanders and units (personnel) with new knowledge, algorithms and effective methods of organizing their activities through communication influence on a potential enemy in the performance of official, combat, service-combat missions. Under communication (strategic communication), we understand the direct act of communication, built on mutual understanding. In addition, communication is also the means by which a person builds relationships with others and understands the feelings and thoughts of others⁷⁰.

To paraphrase the conclusions of L. Orban-Lembrick, characteristics of communication (strategic communication) as the influence of national security actors on the source of threats, including in the post-war period,... " provides for the allocation of its specific features "⁷¹: the presence of a single communicative space of the security and defense sector; communication participants are active actors of mutual information, that is, by directing information, one communication participant assumes the activity of the other; the other, in turn, should also be guided by the motives, goals, attitudes of the partner, analyze them (except, of course, the analysis of their own motives, goals, attitudes); in the course of pronouncing an opinion, each participant establishes joint activities; the activity of communication entities does not imply a formal "movement of information," but an active exchange of it; in the process of communication (strategic communication), the military organizational structure ("mutual understanding" (misunderstanding)) is

⁶⁹ Про національну безпеку України: *Закон України* від 21.06.2018 № 2469-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

⁷⁰ Психология и культура. под ред. Д. Мацумото. СПб.: Питер, 2003. с. 4

⁷¹ Orban-Lembrick, L. (2003). *Sotsialna psykholohiia* [Social Psychology]. Kyiv: Akademvydav (in Ukrainian)

coordinated, which is achieved by the presence of feedback, as well as the importance of information for the defense of the state; information that has passed from one end to the other and returned back, combines the security and defense sector into a single information field; development of a general plan for defense, subject to participation in the planning of a certain structure (in accordance with doctrinal documents for planning operations); the nature of information exchange is determined by the fact that with the help of a system of signs (symbols), participants in planning (interaction) can influence each other; continuous measurement of communication impact efficiency; information that originated in the process of preparing for defense is better than the original; communicative influence is possible only if the entity of ensuring national security (state defense), which sends information (communicator), and the "enemy," which is considered as a source of threats, accepts certain messages (recipient) endowed with a single or similar codification and decodification system; communication is psychologically possible provided that the messages assigned to them (this is a reflection of the most significant and generalized aspects of objects and phenomena) and meanings (this is the subjective meaning that the word acquires in a particular context) are known to all participants in the communicative process and are enshrined in strategic planning documents in the security and defense sector; communication participants should have an identical understanding of the security situation; communication barriers may arise during the exchange of information.

One of the characteristic features of the communication of entities of ensuring national security in the post-war period is that it is implemented not only in the present tense, but also is largely focused on the future, the threat of the resumption of armed aggression, the implementation of a certain threat scenario. This is not only the process of exchanging information, "interaction now," it determines a certain attitude towards the person for a long time. Taking into account the present (or past) attitude, there is an assessment of specific behavior, reported facts and evidence ⁷².

Taking into account the above-mentioned, the process of communicative interaction within the preparation of the security and defense sector to repel armed aggression was supposed to ensure the accumulation of professional experience, enrichment of the positive qualities of a specialist's personality as a result of communication with persons – carriers of negative qualities ⁷³

⁷² Комісаров О., Чистоклетов Л., Шишко В., Хитра О., Костовська К. Модель інформаційно-комунікативного впливу суб'єктів забезпечення національної безпеки на джерело загроз. *Trajectoriâ Nauki = Path of Science*. 2019. Vol. 5. No 1. P. 3001-3011. DOI: 10.22178/pos.42-3

⁷³ Kazmirenko, L., & Moiseieva, Ye. (Eds.). (2007). *Yurydychna psyholohiia* [Legal psychology]. Kyiv : KNT (in Ukrainian)

(narratives about the enemy), knowledge of negative aspects of life, analysis of their own strengths and weaknesses, strengths and weaknesses of the enemy, etc.

To clearly predict the situation of perception of the beginning of "aggression," national security actors should take into account the existence of a number of "effects": the halo effect (the formation of a specific setting through directional attribution to the one who is perceived by certain qualities); the effect of primacy, which consists in the fact that the information obtained earlier has a greater value than that which comes after a while; stereotyping, which appears as... " the desire to build general conclusions based on limited information, insignificant past experience, leads to a simplified process of knowing another person, to the emergence of bias " ⁷⁴. Therefore, it is very important for the actor of ensuring national security at the preparatory stage to have information about a potential enemy in order to organize communication influence on him as a source of threats by conducting special measures (operations) – operational, regime, combat and other measures carried out according to a single plan ⁷⁵.

In general, the information and communicative influence of entities of ensuring national security on the source of threats is the influence of a manipulative nature, not only during communication, but even at a distance (demonstrative actions, etc.), thanks to which it is possible to predict the actions of the enemy, as well as further changes in its possible manifestations. Of great importance in the post-war period will be the systematic distribution of specially prepared messages using: technical means of replication, information (radio, television, press, video, sound recordings, etc.), which are used to influence the attitudes, behavior, opinions of people ⁷⁶.

It should be noted that the effects of communication in the post-war period may be different from expected. This, in particular, refusal to communicate; manifestations of aggression; intrusive transfer of information that is not reliable; ignoring the transmitted information (conscious or not conscious), etc.

⁷⁴ Барко В.І. Психологія управління персоналом органів внутрішніх справ (проактивний підхід). К. : Ніка-центр, 2003.

⁷⁵ Комісаров О., Чистоклетов Л., Шишко В., Хитра О., Костовська К. Модель інформаційно-комунікативного впливу суб'єктів забезпечення національної безпеки на джерело загроз. *Traektorîa Nauki = Path of Science*. 2019. Vol. 5. No 1. P. 3001-3011. DOI: 10.22178/pos.42-3

⁷⁶ Комісаров О., Чистоклетов Л., Шишко В., Хитра О., Костовська К. Модель інформаційно-комунікативного впливу суб'єктів забезпечення національної безпеки на джерело загроз. *Traektorîa Nauki = Path of Science*. 2019. Vol. 5. No 1. P. 3001-3011. DOI: 10.22178/pos.42-3

In addition to the system of strategic communications, as an element of preparing Ukrainian citizens for national resistance, the Law of Ukraine "On the Foundations of National Resistance" considers the construction of territorial defense systems (according to the Unified Plan) and the system of resistance movement. Thus, the organization of territorial defense provides for a separate development of the military, civil and military-civilian components.

In addition to the system of strategic communications, as an element of preparing Ukrainian citizens for national resistance, the Law of Ukraine "On the Foundations of National Resistance" considers the construction of territorial defense systems (according to the Unified Plan) and the system of resistance movement. Thus, the organization of territorial defense provides for a separate development of the military, civil and military-civilian components.

Regarding the military component of territorial defense, military units of the Territorial Defense Forces of the Armed Forces of Ukraine are being formed and volunteer formations of territorial communities are involved (trained) to participate in territorial defense ⁷⁷.

In accordance with Article 8 of the Law of Ukraine "On the Foundations of National Resistance," military units of the Territorial Defense Forces of the Armed Forces of Ukraine are formed and function: 1) in each zone of territorial defense and additionally in each city whose population exceeds 900 thousand inhabitants, as a brigade of the Territorial Defense Forces of the Armed Forces of Ukraine; 2) in each territorial defense district and additionally in each administrative center of the region as battalions of the Territorial Defense Forces of the Armed Forces of Ukraine. In the zones of territorial defense, the population of which exceeds 2,400,000 inhabitants, additional military units (units) of the Territorial Defense Forces of the Armed Forces of Ukraine can be formed and function ⁷⁸.

Headquarters of the zone (district) of territorial defense in peacetime carry out: collection, processing, generalization, analysis of information and assessment of the situation, which affects the preparation of components of territorial defense, which are involved in the tasks of territorial defense in the zone (district) of territorial defense; preparation of necessary calculations and proposals, analytical materials for adoption by the leaders of the zone (district) of territorial defense of decisions on territorial defense; organization and implementation of planning of territorial defense within the territory of the corresponding zone (district) of territorial defense; participate in the

⁷⁷ Про затвердження Порядку організації, забезпечення та проведення підготовки добровільних формувань територіальних громад до виконання завдань територіальної оборони: *Постанова Кабінету Міністрів України* від 29.12.2021 № 1447. URL: <https://zakon.rada.gov.ua/laws/show/1447-2021-%D0%BF#n9>.

⁷⁸ Про основи національного спротиву: *Закон України* від 16.07.2021 № 1702-IX. URL: <https://zakon.rada.gov.ua/laws/show/1702-20#Text>.

organization of the survey of important objects and communications, other critical infrastructure objects determined by the Cabinet of Ministers of Ukraine, and high-risk objects, the disruption and disabling of which pose a threat to the life of the population, participation in the organization of their protection and defense; ensure the implementation of powers of chiefs of zones (districts) of territorial defense to plan territorial defense in the relevant (relevant) zone (district) of territorial defense; participate in the creation of a territorial defense management system within the relevant territorial defense zone (area); work out on the basis of decisions of the head of the zone (district) of territorial defense the procedure for organizing territorial defense, determining the forms and methods of performing tasks by territorial defense and bringing to the executors the orders of the head of the zone (district) of territorial defense, organizing control over their implementation; organize and maintain interaction between the headquarters of territorial defense zones (districts), management bodies and civil protection forces of the relevant territorial subsystem of the unified national civil protection system during the preparation and execution of territorial defense tasks; organize and monitor the preparation and readiness of forces and means involved in the implementation of territorial defense tasks; organize the preparation and conduct of exercises (trainings) with the forces and means of the security and defense forces of the territorial defense zones (districts) and participate in exercises (trainings) according to the training plan of the Armed Forces; manage the actions of forces and means that are involved in the tasks of territorial defense; contribute to the organization of a system of combined arms training of Ukrainian citizens for national resistance; supervise the brigades (battalions) of the Territorial Defense Forces of the Armed Forces and coordinate actions to create a system of volunteer formations of territorial communities within the territorial defense zone (region), determine their tasks in peacetime and a special period; organize and ensure the implementation of measures of hidden control of subordinate troops (forces); participate in facilitating measures to organize the preparation of the resistance movement; organize the protection of state secrets, cryptographic and technical protection of information, counteraction to technical intelligence, protection of other information with limited access ⁷⁹.

⁷⁹ Про затвердження Типового положення про штаб зони (району) територіальної оборони: *Постанова Кабінету Міністрів України* від 29.12.2021 № 1442. URL: <https://zakon.rada.gov.ua/laws/show/1442-2021-%D0%BF#Text>.

CONCLUSIONS

Proposals and recommendations for the application of the category "crisis of the recovery period" in the legal regulation of the transition to ensuring military security in the post-war period

Events since February 2022 confirm the conclusions made by security specialists based on the results of resolving the consequences of numerous crisis phenomena in different countries of the world ⁸⁰, and will certainly continue to be relevant on the territory of Ukraine after the end of active hostilities with the actual onset of the "crisis of the recovery period." We are confident that Ukraine, despite the unique experience and tragic volumes of the current conflict, is no exception in its own ways of resolving it and "transition" to recovery, in particular, the implementation of further reform of the security and defense sector of Ukraine.

Based on the above, we note that in the post-war period, the background phenomena will remain the global financial crisis, its economic and socio-political consequences, which will negatively affect the security component of public life of all post-war states.

We are also convinced that the then practice of public administration by the security and defense sector will require views on the content of the category "crisis situations of the recovery period," the emergence of an appropriate legislative definition, etc. that are well-established in science.

The first factor that will require in the post-war period of solving this problem will be measures to stabilize the social and global situation on the basis of the postulates of the theory of systems, which provides an understanding that any system seeks a stable state and wants to avoid chaos. We found that in the works of the majority of both contemporary authors and authors of the past "stability": implies "the acquisition of new qualities by its components" ⁸¹; related to the processes of overcoming crises, which, together with chaos, are recognized as an obstacle to the development of the system itself. Accordingly, with the most general interpretation of the problem, a perception is formed that the process of overcoming the "crisis of the recovery period," which should both give impetus to the development of the security system in the post-war period and end with its return to peacetime.

Crisis phenomena and situations of the recovery period, as a material reflection of the "crisis of the recovery period" in real time, provide an opportunity to consider such facts in the future as a sufficiently independent

⁸⁰ Комісаров О.Г., Хитра О.Л. Концептуальні підходи до використання категорії «кризові ситуації, що загрожують національній безпеці України». *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2017. № 3. С.105

⁸¹ Комісаров О.Г., Хитра О.Л. Концептуальні підходи до використання категорії «кризові ситуації, що загрожують національній безпеці України». *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2017. № 3. С.105

subject of research. Among the variety of judgments regarding the category of "crisis," for example, I. Bredkina and Yu. Simekha ⁸², we generated a remark on the triple goal of the crisis in the postwar period: 1) the destruction of the pre-war state of the system as a whole; 2) the destruction of the components of the pre-war state, as a means of further development and transition to another qualitatively new state based on these newly formed components; 3) restoring equilibrium in the system without changing its parameters.

Formed from the 70s of the XX century, a certain categorical apparatus of the crisis phenomenon can be divided into groups in the post-war period: 1) definitions of the concepts of "crisis," "crisis phenomenon," "crisis state," "crisis situation"; 2) classification of crises, including those that threaten national security; 3) modeling the development of crises in various areas of public life or sectors of the economy; 4) establishment of crisis communications and decision-making in crisis conditions; 5) development of state policy and crisis response strategy; 6) working out ways to prevent crises in various areas and society as a whole ⁸³. An example of the fourth group, in particular, may be the Strategy for the De-occupation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea and the City of Sevastopol, "where paragraph 4 of the General Provisions states that the objectives of the national policy to ensure the de-occupation of the temporarily occupied territory and its safe reintegration are: restoration of the territorial integrity of Ukraine within its internationally recognized state border, ensuring the state sovereignty of Ukraine; ensuring national unity, sustainability and cohesion of Ukrainian society and the state of Ukraine; termination of the use of the temporarily occupied territory for activities that threaten the national security of Ukraine and/or aimed at undermining international security and peace; defining the legal framework for transitional justice; formation and implementation of policies in the legal, social, educational, informational, humanitarian and other fields to increase and strengthen the level of trust, guarantee the rights and legitimate interests of Ukrainian citizens who suffered as a result of the temporary occupation; ensuring sustainable socio-political, humanitarian and economic development of Ukraine in accordance with the determined principles of domestic and

⁸² Бредкіна І.К., Сімех Ю.А. Сучасні підходи до визначення поняття «криза». Матеріали II Міжнародної научно-практичної інтернет-конференції "Проблеми формування нової економіки ХХІ століття" (25-26 грудня 2009 року) НПК "CONSTANTA". URL: <http://www.confcontact.com/2009new/3-brenkina.php>.

⁸³ Комісаров О.Г., Хитра О.Л. Концептуальні підходи до використання категорії «кризові ситуації, що загрожують національній безпеці України». *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2017. № 3. С. 106

foreign policy, the strategic course of the state to acquire full membership of Ukraine in the European Union and the North Atlantic Treaty Organization ⁸⁴.

It should be cautioned that by carrying out restoration and stabilization measures, the actors of ensuring national security during the "crisis of the restoration period" should "move away" from the forms and methods of defense measures (repulsing armed aggression) by concentrating their own efforts on anti-terrorist or special police operations. It should also be noted that during the performance of combat or service-combat tasks of the past, the organizing role and personal example of the leaders, including task-forces seniors, operational groups and unit commanders who participated in the corresponding special operation, were of great importance. Another "restorative" factor in the case of a special operation or operation to eliminate the consequences of an emergency is the deployment of the "situational center," which: clarifies information about the number of people who have suffered, whose identity is established, who need help or are subject to detention, the availability of security vehicles (belonging, quantity, brand, license plate), the availability of weapons, etc.

The traditional issue for situational centers that will become critically necessary in the post-war period is: forecasting the possible development of the security situation; preparation of proposals and calculation of forces and means to be used; bringing the decisions of the military authorities, military command (command), local authorities in case of restoration of their functioning, both to the personnel, which, according to the operational plan, must be involved in the relevant operation, and to the local population, the organization of their gathering places, etc.; organization of management of various groups from the components of the security and defense sector, construction of operational construction or restoration of their interaction based on the principles of "unified dislocation"; informing the leadership of the GUNP, territorial (separate) police units, operational duty territorial body of the Security Service of Ukraine, the State Border Service of Ukraine, the National Guard of Ukraine, the Military Law Enforcement Service, the State Emergency Service of Ukraine, other involved representatives (components) of the security and defense sector of Ukraine about the development of events and the progress of the operation; preparation of information (reports) on the progress and results of stabilization measures; ensuring interaction with other military formations and law enforcement agencies, executive authorities and local self-government and coordinating their actions; preparation of draft

⁸⁴ Про рішення Ради національної безпеки і оборони України від 11 березня 2021 року «Про Стратегію деокупації та реінтеграції тимчасово окупованої території Автономної Республіки Крим та міста Севастополя»: Указ Президента України № 117/2021 URL: <https://www.president.gov.ua/documents/1172021-37533>.

decisions of the head of the situation center, bringing them to the persons involved in the operation, control of implementation; providing continuous control, stable communication with subordinate units and formed groups of operational construction; collecting information about the operational situation that arises during the operation, its analysis and preparation of proposals by the leaders of all involved components of the security and defense sector (through the "groups of directions") on the use (regrouping) of the relevant forces and means; ensuring timely and complete recording of events in the documentation of the situation center.

At the same time, within the framework of legal science, the concept of "crisis of the recovery period" is hardly used and has not found its wide application, primarily in rule-making. Thus, in current legal terminology, it is possible to note only the concepts of "crisis situations," "crisis intervention," "crisis counseling" and "crisis response to military threats," the use of which takes place during the settlement of peacetime relations (civil protection, aviation security, security of nuclear materials, where Ukraine is a party to international agreements or international programs, relations of special partnership between Ukraine and NATO, as well as relations of implementation of national standards of social services of crisis and emergency intervention⁸⁵). Accordingly, any "crisis of the recovery period," which, according to the totality of the dangerous factors qualified by physical, chemical, biological or other action (influence), is an excess in the post-war period of the normative indicators of peacetime regarding such factors and creates a threat to human life and/or health, first of all, should be designated as an emergency situation, and its "solution" to rely on the Unified State System of Civil Protection.

In turn, with the advent in 2015 of the concept of "crisis situation of the emergency level"⁸⁶, the connection of the relevant "situation" with the classification of crisis situations by level should be added to this statement (level 1 – crisis situation of the early warning level; Level 2 – warning level crisis situation; level 3 – emergency level crisis situation) and, accordingly, define the "recovery period crisis of the first level" as the presence of a forecast of a dangerous event – events, including disasters, accidents, fires, natural disasters, epidemics, epizootics, epiphytotic, which in its consequences poses a threat to the life or health of the population or leads to

⁸⁵ Комісаров О.Г., Хитра О.Л. Концептуальні підходи до використання категорії «кризові ситуації, що загрожують національній безпеці України». *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2017. № 3. С. 106

⁸⁶ Про затвердження Національного плану дій: *Наказ Міністерства внутрішніх справ України* від 02.11.2015 № 687. URL: <http://zakon2.rada.gov.ua/laws/show/z1458-15/ed20151102/paran48#n48>.

material damage⁸⁷, "the crisis of the recovery period of the second level" – a dangerous event that has already occurred, but the threat to the life or health of the population or the infliction of material damage is still potential or insignificant, "crisis of the recovery period of the third level" – the situation in a separate territory or entity on it or a water body, which is characterized by a violation of normal living conditions of the population, caused by a catastrophe, an accident, fire, natural disaster, epidemic, epizootic, epiphytotic, use of weapons or other dangerous event that led (may lead) to the emergence of a threat to the life or health of the population, a large number of dead and injured, the infliction of significant material damage, as well as the inability of the population to live in such a territory or facility, the conduct of economic activity on it (emergency)⁸⁸.

Considering the correlation between the concepts of "crisis" and "emergency" in the conditions of the recovery period, one should take into account the requirements of Article 6 of the Code of Civil Protection of Ukraine, according to which civil protection is provided taking into account the features defined by the Law of Ukraine "On National Security of Ukraine," entities authorized to protect the population, territories, environment and property, in accordance with the requirements of this Code – in peacetime, as well as in a special period – within the framework of the implementation of state measures for the defense of Ukraine⁸⁹. Thus, it should be summarized that the definition of a situation as a crisis situation of the recovery period is dependent on the interpretation by the authorized entity of the ratio of the influence of "dangerous factors" and "national interests" on the conditions of its activities to protect the population, territory, environment and property in the relevant situation as such, in which "dangerous factors" at the response stage are seen as more significant.

The category of "national interests" in the post-war period should be widely used in public practice in order to overcome the negative consequences of the crisis, including in the areas of public administration, international relations, and ensuring national security. Regarding the latter field, in order to implement the national policy of national security, to protect national interests in all areas of public and state life in the post-war period, systems for ensuring national security should be formed and constantly improved. The same applies to collective security systems, participation in which can be declared in

⁸⁷ Кодекс цивільного захисту України від 02.10.2012 № 5403-VI. URL: <http://zakon2.rada.gov.ua/laws/show/5403-17>.

⁸⁸ Кодекс цивільного захисту України від 02.10.2012 № 5403-VI. URL: <http://zakon2.rada.gov.ua/laws/show/5403-17>.

⁸⁹ Кодекс цивільного захисту України від 02.10.2012 № 5403-VI. URL: <http://zakon2.rada.gov.ua/laws/show/5403-17>.

"peacetime," situationally provided in conditions of armed struggle and separately analyzed for the post-war period.

Another important aspect of the crisis of the recovery period should be considered the complexity of the use of many factors, in particular economic, political, scientific and technical, social, spiritual, military and legal. Accordingly, the system of ensuring the national security of Ukraine in the post-war period should take the form of a state-organized set of entities of ensuring national security united by common and/or common goals and objectives to protect national interests, as well as their coordinated and/or joint activities within the framework of the legislation of Ukraine. According to the current position of the legislator, relations with the participation of such actors receive a description of civil-military relations and cover political, financial-economic, social and other processes in the field of national security and defense with the transformation of military administrations into civil-military administrations in the post-war period.

The presence of a set of public authorities and military formations that, in accordance with the requirements of the law, in the post-war period become participants in military-civil relations in certain areas, allows us to designate such a range of entities as participants in resolving the crisis situation of the recovery period, which threatens national security. In turn, the development of decisions to determine the strategic national interests of Ukraine, conceptual approaches and directions of ensuring national security and defense in the political, economic, social, military, scientific and technological, environmental, information and other areas are within the competence of the National Security and Defense Council of Ukraine, which, in particular, coordinates and controls the activities of executive authorities in the event of crisis situations that threaten the national security of Ukraine ⁹⁰. It should be borne in mind that despite the fact that the specified function is attributed to one of the three main functions of the NSDC, in 2014, along with the concept of a "crisis situation threatening national security," a generalizing concept of a "crisis situation" was introduced into the content of the relevant law with the definition of the latter as an extreme aggravation of contradictions, acute destabilization of the situation in any field of activity, region, country ⁹¹.

In the above strategic decisions on the development of civil-military relations, both concepts are used for different purposes. Thus, "crisis

⁹⁰ Про Раду національної безпеки і оборони України: *Закон України* від 05.03.1998 р. № 183/98-ВР. URL: <https://zakon.rada.gov.ua/laws/show/183/98-вр#Text>

⁹¹ Про внесення змін до Закону України "Про Раду національної безпеки і оборони України" щодо вдосконалення координації і контролю у сфері національної безпеки і оборони: *Закон України* від 25.12.2014 № 43-VIII. URL: <http://zakon3.rada.gov.ua/laws/show/43-19>.

situations threatening national security" is used to outline the structure (directions) of the state policy of national security of Ukraine, in particular, increasing the country's defense capability and/or involving units of the National Guard of Ukraine in supporting the operations of the Armed Forces of Ukraine, as well as on issues of deepening cooperation with NATO, the concept of "crisis situations" – as an equivalent to the concept of "conflict," emphasizing the possibility of building up the forces necessary for its solution, advance planning of the necessary costs, the formation of a single response mechanism⁹².

It should also be noted that the Strategic Defense Bulletin as a whole provides for the formation of a national crisis response system, which will operate separately from a similar emergency response system and will cover timely and adequate response to crises that threaten national security⁹³.

Thus, the area of use of the concept of "crisis situations of the recovery period" in today conditions and in further scientific research should be considered the processes of settlement of civil-military relations with the participation of individual components of the security and defense sector of the recovery period. The conditions for considering the situation as threatening national security in the post-war period are the presence of qualified by physical, chemical, biological or other action (influence) of dangerous factors, negative consequences and/or decision-making by an authorized official or collective body⁹⁴.

Within the framework of the recovery period, measures will be taken to de-occupy and reintegrate the territory of the Autonomous Republic of Crimea, Donetsk, Lugansk, Kherson, Zaporizhzhya regions, which will require amendments and additions to departmental regulations, namely, the adoption of provisions that would determine the need to determine the choice of the optimal tactical technique that will help to anticipate the planning and application of techniques and methods of action, taking into account the characteristics of the situations of the post-war period by forces and means (offensive, activity, conspiratorial, suddenness).

The actions of the participants in the operations of the security forces and the defense forces in the post-war period should be aimed at solving the

⁹² Комісаров О.Г., Хитра О.Л. Концептуальні підходи до використання категорії «кризові ситуації, що загрожують національній безпеці України». *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2017. № 3. С. 109

⁹³ Про рішення Ради національної безпеки і оборони України від 20 серпня 2021 року "Про Стратегічний оборонний бюлетень України": *Указ Президента України* від 17.09.2021 № 473/2021. URL: <https://zakon.rada.gov.ua/laws/show/473/2021#n17>.

⁹⁴ Комісаров О.Г., Хитра О.Л. Концептуальні підходи до використання категорії «кризові ситуації, що загрожують національній безпеці України». *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2017. № 3. С. 110

"crisis," be quick and decisive. It is the dynamism and sequence of actions that will indicate the need for a constant, consistent and purposeful movement of stabilizing forces and tools, a justified and thoughtful transition from some methods of action to others.

SUMMARY

The article presents the author's views on the legal regulation of the transition to military security in the post-war period, taking into account the experience gained in repelling armed aggression. A model of expectations for the development of the legal regulation system in the post-war period is formed.

It is emphasized that on the first day of repulsing full-scale armed aggression, Ukraine began to exist "in wartime" – a state which will last until the day and time of the end of the war. The further development of the country is characterized as a post-war period, which will begin after the end of active hostilities and will be marked by the actual onset of a "crisis of the recovery period".

At the same time, during the "crisis of recovery period", the subjects of national security should "move away" from the forms and methods of defense measures (repulsion of armed aggression) and concentrate their efforts on anti-terrorist or special police operations.

In the post-war period, the global financial crisis, its economic and socio-political consequences will remain a background phenomenon, which will negatively affect the security component of public life in all post-war states. To denote the totality of these phenomena in the post-war period, the author proposes the concept of "crisis situations of the recovery period" and emphasizes the need for an appropriate legislative definition.

It is proposed that the scope of the concept of "crisis situations of the recovery period" should be considered the processes of settlement of civil-military relations involving certain components of the security and defense sector of the recovery period. The conditions for considering a situation as one that threatens national security in the post-war period are the presence of hazardous factors qualified by physical, chemical, biological or other action (impact), negative consequences and/or decision-making by an authorized official or collective body.

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