

CHARACTERISTIC OF THE NATIONAL MODEL OF TERRITORIAL DEFENSE

Stanislav Yarmola,

*Head of the Regional Department of the Territorial Defense Forces "South"
of the Territorial Defense Forces of the Armed Forces of Ukraine*

Abstract. The article is devoted to the study of the components of territorial defense, which together allow forming a unified vision of the national model of territorial defense. The author proposes that the specifics of the national model of territorial defense will be reflected in: 1) institutional features of territorial defense; 2) regulatory framework of territorial defense; 3) functional framework of territorial defense. The structuring of the regulatory framework of territorial defense should be carried out taking into account the following principles: 1) State jurisdiction (indicates national and international acts which may act as regulators of this area of public relations); 2) legal force (indicates the legal binding nature of legal acts within the national legal system); 3) subject matter of legal influence (indicates a specific aspect of the functioning of territorial defense).

The author proposes and substantiates the thesis that it is expedient to adopt the Law of Ukraine "On Territorial Defense" and to adopt an updated Doctrine of Territorial Defense which should substantially follow the requirements of today and the best practices of international partners.

Key words: territorial defense, institutional component, legal framework, functional component, national security, legal regime of martial law.

Introduction. According to Article 17 of the Constitution of Ukraine, the protection of the sovereignty and territorial integrity of Ukraine, ensuring its economic and information security are the most important functions of the state, the concern of the whole Ukrainian people (Constitution of Ukraine, 1996). The Military Security Strategy of Ukraine (2021) adopted by the Decree of the President of Ukraine not only introduced the principle of comprehensive defense, but also identified the creation of a powerful territorial defense, which, in cooperation with the resistance movement, will help to increase the level of defense capability of the state, unite society, patriotic education of citizens, make Ukraine's defense national and the population's readiness to defend the state as one of the goals of the state policy in the military sphere, defense and military construction [2]. In the context of the introduction of martial law on the territory of Ukraine (On the introduction of martial law on the territory of Ukraine, 2022), the issues of territorial defense have again gained special significance and importance as a condition for the defense and protection of the sovereignty and territorial integrity of Ukraine, which makes it relevant to study this topic.

Methods. The research methodology is determined by the defined goal and set tasks and includes various methods of scientific knowledge, approaches and actions aimed at obtaining new scientific results during the study of the problem of determining the effective model of territorial defense in Ukraine. During the research, general and special methods of scientific knowledge, the method of systematic analysis, the dialectical method, formal-logical methods, structural-functional and comparative-legal methods, as well as a number of empirical methods were used, which ultimately made it possible to determine the meaning of the structural elements of territorial defense.

The main method of research was the modeling method, which is used in scientific knowledge to study an object by creating and studying its copy (model), which reproduces the properties of the object under study by its

properties. In a broad sense, it is a special cognitive process, a method of theoretical and practical mediated cognition, when the subject instead of the direct object of cognition chooses or creates a substitute object (model) similar to it, examines it, and transfers the acquired information to the real subject of study. As a result, a model is formed, which is a project, an informational, natural-material or descriptive-model representation of the subject (The essence of the modeling method as a scientific process of cognition. Features of scientific cognition).

Application of the idea of modeling to the field of legal knowledge is possible in the course of improving state regulation of a certain area of social relations. That is, it will cover a set of state measures aimed at directing the behavior of subjects (individuals and legal entities) in the direction necessary to achieve the goals set by public authorities. At the level of the general science of management, modeling will be a way to solve these problems. As of today, there are tasks that need to be addressed as a matter of priority. These include the formation of effective territorial defense.

Adaptation of modeling to the processes of building territorial defense will mediate a targeted impact on the objects of management, using methods that provide for the subordination of these objects to the management influence of the management subject, as well as the impact on the environment surrounding the object. It involves a high degree of alternative behavior of managed objects (Averianov, 2009: 28).

Thus, modeling of territorial defense is a purposeful analytical activity aimed at finding optimal forms of realization of priorities of territorial defense tasks through the introduction of legal, administrative, financial, organizational, informational and social measures.

Results. For the purposes of this study, the form of implementation of the territorial defense priority tasks shows how the state creates and fixes a particular rule of law and in what form this rule is brought to the attention of the members of society. The form of implementation of the territorial defense tasks is a set of official and documentary

methods recognized by a particular State for external expression and consolidation of legal norms and the content of law which defines the principles of protection of the State. It is thanks to the state-official ways of expressing and enshrining territorial defense measures in the law that the latter acquire a binding legal significance. From this point of view, all forms of realization of the tasks of territorial defense must be legally enshrined. Only from that moment on, they acquire the qualities of state obligation and generality (Topol, 2012: 146).

Each independent state forms a specific type of territorial defense. In Ukraine, there is a model of territorial defense that consists of civilian, civil-military and military components, which together ensure the protection of a certain territory. It should be noted that the status of territorial defense in Ukraine has changed as a result of the legal regime of martial law: the tasks assigned to it are expanding, the territory of its activity is changing, the system of territorial defense bodies and their subordination is being transformed, measures to ensure territorial defense are being improved, etc. As stated in the Analytical Report of the Center for Defense Strategies for 2021 (2021), the target model of territorial defense should aim to achieve a state of security of the national territory, communities, and individual citizens that ensures the sustainable functioning of state institutions and the full realization of constitutional rights and freedoms of citizens. This model should be based on two fundamental principles: territoriality and broad involvement of the population in territorial defense.

The formation of a long-term defense model is a system of political, economic, social, military, scientific, scientific and technical, information, legal, organizational, and other measures of the state to prepare for armed defense and its protection in the event of armed aggression or armed conflict. The "system of state measures" itself is purely a list of established measures, the implementation of which will ensure the preparation and defense of the state. At the same time, the model of defense of Ukraine is reflected in such a way as to cover the activities of state authorities, other state bodies, local self-government bodies, all components of the security and defense sector of Ukraine, the unified civil protection system, the national economy, and other components united by the purpose and tasks, which exercise legally established powers, functions and tasks to ensure preparation for defense, defense of the state, protection of its sovereignty, territorial integrity and other national interests in the event of armed aggression. (Tymoshenko, Pavliovskiy, Lobko, 2021). In other words, the institutional model of state defense includes territorial defense as an entity that will carry out certain defense measures.

The national model of state defense envisages the existence of a military formation in the form of the Armed Forces of Ukraine, as well as a set of bodies and entities that perform tasks of territorial defense of the state. Theoretical elaboration of provisions related to state defense in general and territorial defense in particular in the vast majority of cases does not find empirical confirmation. The peculiarity of the formation of the Ukrainian defense model is that the decisions made are tested in practice. Therefore, before making adjustments to the current system of territorial

defense, it is necessary to identify the negative aspects and possible drawbacks of the changes.

Discussion. Structuring the territorial defense model. The debate on the structured nature of the territorial defense model is reduced to the following points. Firstly, the model of territorial defense should reflect not only a set of certain elements, but also the relations and interconnections between them that arise in the process of its functioning. The said model of territorial defense should reflect the properties of this system that ensure the stability of its elements, functioning and fulfillment of tasks during the period of martial law. The qualitative links between the elements of the institutional system will be discussed in the next part of the study.

Secondly, based on the fact that it is a model, it should include a certain number of elements (components) that perform the functions of territorial defense of the state. The concept of "component" should be understood as a component of the whole, which is a set of certain elements united on a functional basis. The first component of the model should be defined as those elements that are responsible for performing the functions of territorial defense. This component should be the subjective component. The entities that form the institutional system of territorial defense will include:

1) those that form the military component. They include:

a) military command and control bodies (the Commander-in-Chief of the Armed Forces of Ukraine, the General Staff of the Armed Forces of Ukraine, the Regional Military Command and Control Body of the Territorial Defense Forces of the Armed Forces of Ukraine, the Command of the Land Forces of the Armed Forces of Ukraine)

b) military units of the territorial defense of the Armed Forces of Ukraine;

c) other forces and means of the security and defense forces involved in the performance of territorial defense tasks (the National Police of Ukraine, the National Guard of Ukraine, the State Border Guard Service of Ukraine, the State Service for Special Communications and Information Protection of Ukraine, the State Emergency Service of Ukraine, the Security Service of Ukraine, the State Special Transport Service and the State Protection Department of Ukraine);

2) those that form the civilian component. They include:

a) state bodies (e.g., the Cabinet of Ministers of Ukraine, the Ministry of Defense of Ukraine, the Ministry of Education and Science of Ukraine)

b) local self-government bodies (regional and district councils, village, town and city councils, village, town and city mayors) involved in territorial defense.

3) those that form the military-civilian component. They include:

a) headquarters of zones (districts) of territorial defense (in the Council of Ministers of the ARC, regional, Kyiv, Sevastopol city state administrations, relevant military-civilian or military administrations in case of their formation);

b) headquarters of territorial defense districts (in district state administrations, district military-civilian or military administrations in case of their formation);

c) voluntary formations of territorial communities involved in territorial defense.

The next component of the territorial defense model should be the supply component, which includes elements of: military duty and military service; mobilization training and mobilization; territorial defense of Ukraine; unified state system of civil protection; the unified transport system of Ukraine in a special period; fuel and energy complex in a special period; the unified system of the state material reserve of Ukraine; ensuring information security; national cyber security system; preparation of the population and territory of the state for territorial defense. The listed elements do not directly perform the task of territorial defense, but they perform various functions of its preparation and support (facilitation).

Thirdly, the construction of a territorial defense model should be consistent with the idea of the need to implement the tasks of Euro-Atlantic integration and Ukraine's accession to the North Atlantic Alliance as soon as possible. This will mean a change in the principles of territorial defense, the main ones of which should be: a) the principle of maximum involvement of the civilian population; b) the transition from the performance of a limited range of wartime tasks to the deployment of a component of the comprehensive defense of the state, the formation of the Territorial Defense Forces of the Armed Forces of Ukraine, as an asymmetric response to hybrid threats, capable of performing the entire wide range of tasks of countering terrorist acts, combating reconnaissance and sabotage forces, performing the tasks of territorial defense both outside the operational zones and directly within them, and if necessary, join the resistance movement in the temporarily occupied territories; c) the affirmation of the principle of unity of command as the basis of the territorial defense management system, the exclusion of the civilian component from it, while maintaining close relationships between the military administration bodies and state and local self-government bodies; d) the transition to a new format of territorial defense headquarters, which should switch to the structure adopted in the armies of NATO member countries, the introduction of the standard of interaction between military and civil administrations adopted in the North Atlantic Alliance; e) creation of units in the Territorial Defense Forces of the Armed Forces of Ukraine that will perform the tasks of cyber protection of both information resources and networks of the Armed Forces of Ukraine in cooperation with the Command of Communications and Cyber Security of the Armed Forces of Ukraine, as well as information resources, etc.

The specified principles can be ensured only when there are sufficient personnel of territorial defense formations and educational work among the population, the formation of national-patriotic consciousness among the citizens of Ukraine, the motivation to acquire the knowledge and skills necessary for the protection of

Ukraine from aggression, the formation and maintenance of a positive image Armed Forces of Ukraine; using the potential of the Territorial Defense Forces of the Armed Forces of Ukraine as an integration platform for training the population of the state in military matters, modernizing the system of military service by conscription (Target model of territorial defense, 2021).

The President of Ukraine emphasized that territorial defense should be formed in such a way that there is a full understanding of the area of responsibility - on the part of regional state administrations and district state administrations, regional and district councils and other representatives of local self-government in order to build a very effective model of territorial defense and national resistance. This will create a reliable rear for a professional and well-equipped army, which together will form the basis of the state's defense. At the same time, the organization of national resistance and territorial defense must take place under the auspices and direct leadership of the Armed Forces of Ukraine (An effective model of territorial defense is a reliable rear for the army, and together they form the basis of a strong Ukraine).

There is also a controversy regarding territorial differences. the defense of one region against the territorial defense of another, since they will face different tasks, accordingly, different units should be formed, which will differ in terms of training. This is a whole set of measures, which should be aimed at creating a completely new system of national resistance.

When building an updated national model of territorial defense, we would like to note that it should primarily be based on a person's desire to protect certain values associated with a certain territory. To form this state, there must be a high level of national identity and stability. The concept of ensuring national stability focuses attention on similar theses. Therefore, a national system of resilience should be formed in Ukraine, aimed at forming the necessary capacities at the state, regional and local levels for the proper response of the state and society to a wide range of threats and the rapid recovery of post-crisis situations, which will affect the key interests of such interested parties as citizens of Ukraine, state authorities and local self-government bodies, enterprises, institutions, organizations. At the same time, the following are distinguished: a) national stability as the ability of the state and society to effectively resist threats of any origin and nature, to adapt to changes in the security environment, to maintain stable functioning, to quickly recover to the desired balance after crisis situations; b) organizational stability as the ability of state authorities, local self-government bodies, enterprises, institutions, organizations to identify, prepare, respond to threats, adapt to changes in the security environment, maintain stable functioning before, during and after the onset of a crisis situation in order to maintain functioning and further development (Concept of ensuring the national system of stability, 2021).

Therefore, the model of territorial defense must take into account national identity and the needs of broad citizen involvement on the one hand, and meet NATO

standards on the other. The specified factors mediate the appropriate level of guarantee of the rights of the participants of territorial defense and methods of detailing at the level of individual regions. The specificity of the national model of territorial defense will be reflected in: 1) institutional features of territorial defense; 2) normative basis of territorial defense; 3) the functional basis of territorial defense.

Institutional features of territorial defense. The institutional component of territorial defense reflects the statutory position of entities that implement the tasks of territorial defense.

The system of entities that institutionally implement the tasks of territorial defense is sufficiently extensive. As institutional features of territorial defense, we will consider: 1) the possibility of grouping institutions of territorial defense depending on their classification into: a) military component, b) civilian component, and c) military-civilian component; 2) belonging of the territorial defense to a certain administrative-territorial unit (as a key determinant) and belonging to the entire territory of the Ukrainian state (if necessary, for example, during the legal regime of martial law); 3) the possibility of distinguishing mandatory and voluntary principles of participation in institutions of territorial defense; 4) the possibility of distinguishing special types of relationships between institutions of territorial defense within and with other participants in social relations, etc.

We focus attention on the possibilities of voluntary principles of participation in institutions of territorial defense. This feature is both an advantage of territorial defense over other military formations, as well as a guarantee of the effectiveness of territorial defense. According to the provisions of the Law of Ukraine "On the Fundamentals of National Resistance": "... voluntary formation of a territorial community is a paramilitary unit formed on a voluntary basis from citizens of Ukraine living within the territory of the relevant territorial community, which is intended to participate in the preparation and implementation of the tasks of the territorial defense" (*On the Fundamentals of National Resistance, 2021*). It is significant that membership in a voluntary formation does not exempt from the obligation to perform term military service, military service by conscription during mobilization, for a special period, military service by conscription of officers, military service by conscription of reservists in a special period (*On approval of the Regulation on voluntary formation of territorial communities, 2021*). This indicates a key feature of voluntary formations - their priority is the protection of values associated with the existence of a certain territory and the association of a person - a member of a voluntary formation with these values.

It should be noted that a territorial community within the territory of responsibility can form several voluntary formations, taking into account the available resource and human capabilities. At the same time, the name of each separate voluntary formation is formed taking into account the name of the territorial community, on the territory of which it is formed, and the number of

voluntary formations within one territorial community (*On the Fundamentals of National Resistance, 2021*).

The conditions of martial law made adjustments to the structure of the status of a member of a volunteer formation. In accordance with the provisions of Art. 24 of the Law of Ukraine "On the Fundamentals of National Resistance", the guarantees of social and legal protection provided for by the Law of Ukraine "On Social and Legal protection of servicemen and members of their families" (*On the Fundamentals of National Resistance, 2021*).

Normative basis for the functioning of territorial defense. The relevant legal acts regulating the activities of territorial defense or bodies performing territorial defense tasks contain the following regulatory provisions. For example, according to the Law of Ukraine "On the National Police", the legal basis for the police is the Constitution of Ukraine, ratified international treaties of Ukraine, laws of Ukraine, acts of the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine, acts of the Ministry of Internal Affairs of Ukraine and other regulatory legal acts of Ukraine (Article 3) (*On the National Police, 2015*). According to the Law of Ukraine "On the State Bureau of Investigation", the legal bases for the State Bureau of Investigations' activities are the Constitution of Ukraine, international treaties ratified by Ukraine, laws of Ukraine, and other legal acts (Article 2) (*On the State Bureau of Investigation, 2015*). In the Law of Ukraine "On the Foundations of National Resistance", the legislator does not define a clear list of legal acts that form the regulatory framework for the territorial defense forces. According to the provisions of Article 2, such acts are: The Constitution of Ukraine, the Law of Ukraine "On the Fundamentals of National Resistance", laws of Ukraine, ratified international treaties, and other regulations (*On the Fundamentals of National Resistance, 2021*). With this wording, the legislator attempted to cover all possible forms of expression of legal norms that are somehow related to the activities of the territorial defense forces.

The structuring of the regulatory framework of territorial defense should be carried out taking into account the following principles: 1) state jurisdiction (indicates national and international acts that can act as regulators of this sphere of social relations); 2) legal force (indicates the legal binding nature of legal acts within the national legal system); 3) subject matter of legal influence (indicates a specific aspect of the functioning of territorial defense). The use of a combined approach to the classification of normative legal acts in the field of territorial defense gives grounds to assume that the legal norms regulating the principles of organization and functioning of the territorial defense forces are subject to classification according to the following criteria:

a) by the level of legal consolidation of norms by distinguishing between the national level (national legal acts) and the international level (legal acts of international importance in the field of territorial defense), as well as the regional level (acts of the European Union that define certain aspects of the field of territorial defense);

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ad S' [l S fja` S^ S' V ^S^` X S g d W [fa fZae W fZSf, Sfi
UZS dU W [W ZW e f g U f g d' WaX fZV T a V W aX fZV W f[fa dS^
VWVeW Xid U W / W f[fa dS^ f k fi Tfi W W [W fZW
bekU Za' a [U S' S' V_ ad S' UZS dU W e [U e aX b W e a' ei Za S d W
ge W fa _ S' fZV W f[fa dS^ VWVeW ad U W Ufi UZS dU W [W
fZW bchUWgdW Xid fZV Suf[hf k S' V Xg' Ufa [Y aX fZW
fW f[fa dS^ VWVeW ad U W z

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