The competence of operational units within Ukraine's security and defence sector under martial law

Illia Stepanov,
private entrepreneur, Dnipro, Ukraine

Abstract. The article examines the content, structure, and legal boundaries of the competence of operational units within Ukraine's security and defense sector under the legal regime of martial law. Based on an analysis of legislation, competence is defined as the aggregate of tasks, rights, duties, and powers established by law, aimed at countering criminal offenses, intelligence and subversive activities, and threats to state security. The study substantiates the distinction between the substantive, functional, procedural, and organizational components of competence—relating, respectively, to the sphere of responsibility, the nature of tasks, the procedures for applying special measures, and inter-agency operational cooperation. It is established that the imposition of martial law alters the prioritization of operational tasks but does not, in itself, expand the powers of these units beyond the limits prescribed by law. A distinction is drawn between operational-search powers and criminal procedural powers, based on their legal grounds, decision-making procedures, the procedural status of the entities involved, and the mechanisms for overseeing the legality of their actions. **Methodology.** The scientific research is based on both general and special methods of scientific knowledge. In particular, in the process of analyzing reference literature, provisions of individual regulatory legal acts, in particular the Constitution of Ukraine, the Law of Ukraine "On the National Security of Ukraine", "On Operational-Search Activity", "On the Legal Regime of Martial Law", as well as works of domestic scientists who provide a comprehensive analysis of these provisions, structural-logical and system-functional methods were used. Results. Emphasis is placed on the need to account for the distinctions between operational-search, intelligence, and counterintelligence activities when responding jointly to military threats. It is proposed that for each interagency operation, the following should be defined: the lead agency, the grounds for engaging operational units, the scope of operational autonomy, procedures for information sharing, and the responsibilities of the participating entities. The necessity is substantiated for establishing a regulatory framework governing interaction with military command, the documentation of outcomes, the protection of restricted information, and the resolution of interagency disagreements. It is concluded that departmental and interagency procedures must be improved to prevent the duplication of functions, preserve the statutory limits of agency competence, and ensure effective oversight of compliance with the law.

Key words: operational units, security and defence sector of Ukraine, legal regime of martial law, competence of operational units, operational-search activities, interagency cooperation.

INTRODUCTION

Armed aggression against Ukraine has heightened the role of operational units within the security and defense sector in identifying threats to state security, preventing criminal offenses, and countering intelligence and subversive activities. Article 12 of the Law of Ukraine "On National Security of Ukraine" defines the composition of the security and defense sector [1], while the provisions of the Law of Ukraine "On the Legal Regime of Martial Law" establish the specific modalities for the exercise of powers by state authorities and military command during armed aggression [2]. In particular, under the legal regime of martial law, the precise definition of the competence of operational units becomes especially significant, as the execution of tasks related to ensuring state security and law and order requires the coordination of actions among authorized bodies.

The legal framework governing the competence of operational units is established in Articles 5–8 of the Law of Ukraine "On Operational-Search Activity", which define the range of authorized units, the grounds for conducting operational-search measures, and their respective rights and obligations [3]. Concurrently, Article 41 of the Criminal Procedure Code of Ukraine regulates the authority of operational units to conduct investigative (search) actions and covert investigative (search) actions pursuant to written instructions from authorized participants in criminal proceedings [4]. At the same time, the introduction of the legal regime of martial law does not abolish legislative restrictions on the conduct of operational-search activities; however, it necessitates taking into account the specificities of exercising relevant powers in combat zones, countering threats to state security, and coordinating with the military command.

Consequently, the challenge of defining the competence of operational units within Ukraine's security and defense sector lies in the need to align their statutorily established powers with the tasks that arise during the legal regime of martial law. In particular, careful attention must be paid to delineating operational-search, criminal procedural, intelligence, and counterintelligence powers, as well as establishing the legal boundaries for the participation of operational units in the implementation of martial law measures—ensuring that the functions of other state bodies are not duplicated. Given this, it is highly relevant to examine the content, structure, and limits of the competence of operational units within Ukraine's security and defense sector, taking into account the specific legal regulation of their activities, interagency cooperation, and the safeguards for ensuring legality under the legal regime of martial law.

RESEARCH METHODOLOGY

The scientific research is based on both general and special methods of scientific knowledge. In particular, in the process of analyzing reference literature, provisions of individual regulatory legal acts, in particular the Constitution of Ukraine, the Law of Ukraine "On the National Security of Ukraine", "On Operational-Search Activity", "On the Legal Regime of Martial Law ", as well as works of domestic scientists who provide a comprehensive analysis of these provisions, structural-logical and system-

functional methods were used.

Using the comparative legal method and the method of generalization, this study examines the content and structure of the competencies of operational units within Ukraine's security and defense sector under the legal regime of martial law. Furthermore, these methods have enabled the identification of criteria for delineating the scopes of their respective competencies, as well as the outlining of ways to enhance interagency cooperation among these units during the period of martial law.

The validity and reliability of the study are ensured through the use of a wide range of sources, including legal acts of varying legal force, dictionaries, and scholarly commentaries. Risks stemming from ambiguities in legal regulation and inconsistencies in its application are minimized by employing a conceptual framework well-established in legal scholarship.

Methodological limitations arise from restricted access to information regarding specific aspects of the activities of operational units within Ukraine's security and defense sector. This factor is mitigated by drawing upon data from diverse sources, verifying such data, cross-referencing it with generally accepted approaches, and conducting a critical analysis of the available information.

RESULTS

The issues surrounding the definition of the competence of operational units within Ukraine's security and defense sector under martial law encompass questions regarding their legal status, the scope of their powers, the specifics of exercising these powers, and interagency cooperation. Yu. Mekh, V. Holovko, and D. Horobets examined the administrative-legal status of entities within the security sector, proposing a classification based on their organizational affiliation and the nature of the applicable legal regulation [5, pp. 727–729]. However, their study did not address the specific competencies of operational units—specifically, the legal grounds for and the limits on the exercise of their powers during the legal regime of martial law.

T. Lysko and A. Levchenko analyzed changes in the competence of law enforcement agencies following the introduction of the legal regime of martial law, focusing on the expansion of certain powers of the National Police of Ukraine and the specifics of carrying out law enforcement functions [6, pp. 122–124]. In particular, the authors substantiated the need for a clear regulatory framework defining the powers of state bodies to ensure the legality of their activities amidst armed aggression. Nevertheless, the scope of their research was largely limited to general law enforcement competence, without distinguishing between the operational-search, criminal procedural, and specialized powers of the various structural units within the security and defense sector.

O. Yara and O. Svitlychnyi investigated the functions of Ukrainian law enforcement agencies under the legal regime of martial law, identifying the specificities involved in executing law enforcement tasks, as well as challenges related to the legislative definition of the relevant state bodies [7, pp. 473–475]. In particular, researchers have highlighted the expansion of the scope of law enforcement activity, driven by the emergence of new threats to national security and the need to ensure the state's defense capability. At the same time, the functional approach proposed by O. Yara and O. Svitlychnyi fails to address the delineation of competencies among operational units based on the types of specialized activities, the legal grounds for employing operational measures, and the procedures for interaction with other components of the security and defense sector.

V. Hovorov analyzed the powers of military administrations and other state authorities under the legal regime of martial law, identifying challenges related to the delineation of competencies and the regulatory framework governing their operations [8, pp. 89–93]. Particular attention was paid to the interplay between the powers of military administrations, executive authorities, and local self-government bodies during the execution of tasks under martial law. However, his research did not cover the legal basis for involving operational units in joint tasks with the military command, the limits of their autonomy, or the allocation of responsibility for the implementation of specific measures.

V. Teremetskyi examined judicial control during pre-trial investigation, emphasizing the prevention of unlawful restrictions on individual rights and the preservation of procedural safeguards under martial law [9, pp. 464–465]. His findings are relevant to assessing the procedural limits of operational units' competence and the guarantees of legality in their activities.

V. Teremetskyi and L. Bilinska examined monitoring the commission of a crime in investigations of unlawful benefits, highlighting the prosecutor's exclusive authority to authorize the measure, documentation requirements, and the prohibition of provocation [10, pp. 27–29]. Their findings help distinguish operational units' participation in conducting a covert investigative measure from the procedural authority to authorize it.

O. Mandziuk examined the specifics of deploying operational-investigative units from state border protection agencies during operations conducted by the Defense Forces of Ukraine; he proposed a model for information support, the assessment of the operational situation, and response to threats [11, pp. 30–38]. Specifically, he rightly substantiated the need to improve organizational coordination between operational-investigative units and both military and civilian authorities in the context of armed aggression. At the same time, the approach proposed by O. Mandziuk focuses on the activities of the State Border Guard Service of Ukraine and does not encompass a comparative analysis of the competencies of operational units within other state bodies of the security and defense sector.

O. Kireieva examined the information and analytical support provided to the operational-investigative units of the State Border Guard Service of Ukraine under martial law, identifying organizational, legal, technical, and methodological challenges related to the collection and

processing of operational information [12, pp. 309–312]. However, her research centers on the information and analytical support for border units without comprehensively defining the scope of their authority in relation to the competencies of other entities engaged in intelligence, counterintelligence, and criminal procedural activities. Thus, while existing studies on this issue address certain legal and organizational aspects of the operations of such units during martial law, they lack a substantiation of the content, structure, and limits of their competence, as well as the criteria for delineating their powers and the legal mechanisms for interagency cooperation—all of which necessitates further research into this subject matter.

DISCUSSION

The competence of operational units within Ukraine's security and defense sector is best defined as a legally established set of tasks, rights, duties, and powers aimed at detecting, preventing, and halting threats to national security, countering criminal offenses, and maintaining law and order. Articles 5–8 of the Law of Ukraine "On Operational-Search Activity" [3] define the authorized units, the grounds for conducting operational-search activities, and the duties and rights of these units, which together form the regulatory basis for this competence. Consequently, under the legal regime of martial law, the scope of the competence of operational units is characterized by the heightened importance of tasks related to countering intelligence and subversive activities, identifying threats to the state's defense capability, and ensuring the safety of the population—all while remaining strictly within the bounds of legally established authority.

It should be noted that T. Lysko and A. Levchenko, in their examination of the competence of law enforcement agencies under the legal regime of martial law, have analyzed the specifics of exercising powers—updated and expanded by legislation—that are aimed at ensuring state security, maintaining law and order, and protecting the rights of citizens [6, pp. 122–124]. At the same time, the enhanced role of law enforcement agencies in carrying out tasks during martial law necessitates a clear distinction between the general competence of a state body and the specific powers vested in its operational units. In our view, the scope of the competence of operational units should be defined not only by the nature of the tasks performed but also by the legal grounds for employing operational-search measures, the extent of autonomy in decision-making, and the procedures for interaction with other authorized entities.

Within the competence structure of operational units in Ukraine's security and defense sector, we propose distinguishing between substantive, functional, procedural, and organizational components—encompassing their sphere of responsibility, tasks, methods of exercising authority, and procedures for professional interaction. Specifically, the exercise of this competence under martial law is governed by Articles 9 and 10 of the Law of Ukraine "On the Legal Regime of Martial Law" [2]. These provisions mandate that state bodies continue to exercise their legally established powers and stipulate that the authority of bodies engaged in operational-search activities may not be terminated. Consequently, the specific nature of the competence of operational units during martial law is linked to a shift in the prioritization of operational tasks, the need for rapid response to military threats, and enhanced interagency cooperation—all while remaining within the legally defined limits of their authority.

The legal framework governing the exercise of authority by operational units within Ukraine's security and defense sector is based on a distinction between operational-search activity and criminal procedural activity. These areas are regulated, respectively, by the Law of Ukraine "On Operational-Search Activity" [3] and the Criminal Procedure Code of Ukraine [4]. In particular, Articles 5–8 of the Law of Ukraine "On Operational-Search Activity" define the subjects involved, the grounds for conducting operational-search activities, and the rights and duties of operational units. Meanwhile, Article 41 of the Criminal Procedure Code of Ukraine establishes the procedure for these units to carry out investigative (search) actions and covert investigative (search) actions pursuant to written instructions from authorized participants in criminal proceedings. In our view, the primary criteria for distinguishing between these respective powers should include the legal basis for their origin, the subject matter of the activity, the procedural status of the authorized entity, the decision-making process, and statutory limitations regarding the application of operational measures.

Conversely, O. Yara and O. Svitlychnyi, in their examination of the functions of Ukrainian law enforcement agencies under the legal regime of martial law, analyzed the impact of armed aggression on the substance of law enforcement activity and identified issues concerning the legislative codification of the powers of relevant state bodies [7, pp. 473–475]. At the same time, the expansion of law enforcement mandates—driven by the emergence of additional security threats—cannot be construed as an independent legal basis for operational units to exercise powers not explicitly provided for by legislation. Therefore, we contend that delineating the competencies of operational units requires establishing alignment between the nature of the threat, the statutorily defined tasks of the state body, the permissible methods for obtaining information, and the legal consequences resulting from the application of special measures.

Thus, the specifics of exercising the powers of operational units under martial law must be determined with regard to Articles 9 and 10 of the Law of Ukraine "On the Legal Regime of Martial Law" [2], which regulate the exercise of powers by state authorities and prohibit the termination of the authority of bodies engaged in operational-search activities. At the same time, the provisions of Article 615 of the Criminal Procedure Code of Ukraine [4] establish a special regime for criminal proceedings during martial law; however, the application of this special procedural order does not imply an unlimited expansion of the competence of operational units. In light of this, it is appropriate to delineate powers based on their functional purpose, the legal grounds for conducting measures, the nature of official subordination,

and the mechanisms of oversight. Furthermore, it is necessary to define, through legislation, the conditions under which operational units may be engaged in joint tasks with the military command, ensuring that this does not result in the duplication of the competencies of other entities within the security and defense sector.

Therefore, the legal boundaries of the competence of operational units within Ukraine's security and defense sector during martial law are defined by legislatively established tasks, powers, and the procedures for their implementation; the introduction of the special legal regime of martial law does not, in itself, constitute grounds for expanding operational-search powers. In accordance with Articles 6, 8, and 9 of the Law of Ukraine "On Operational-Search Activity" [3], the conduct of operational-search measures requires proper legal grounds, as well as adherence to established procedures and guarantees of legality. In our view, defining the scope of competence for operational units should be based on a clear delineation of tasks related to countering criminal offenses, intelligence and subversive activities, and threats to state security. This must take into account the specific mandates of individual state agencies, as well as the requirements of Article 41 of the Criminal Procedure Code of Ukraine [4] regarding the execution of procedural instructions.

Enhancing interagency cooperation among operational units under martial law requires a precise distribution of tasks—among the Security Service of Ukraine, the National Police of Ukraine, the State Border Guard Service of Ukraine, and other authorized bodies—when responding jointly to threats to national security. Therefore, it is proposed that for every joint operation, the following should be established: the lead agency, the legal basis for the involvement of operational units, the extent of their operational autonomy, the procedures for information exchange, and accountability for the outcomes of the assigned tasks. In particular, careful attention must be paid to distinguishing between the powers of operational units and those of the military command; the coordination of joint actions must not entail the transfer of operational-search or criminal procedural powers to entities not authorized by law to exercise them.

To improve the effectiveness of interagency cooperation, it is advisable to establish—within departmental and interagency regulatory acts—a unified procedure for coordinating joint operations, designating responsible officials, documenting operational outcomes, and transmitting operational information within the limits of established competence. In particular, specific regulatory provisions are required for procedures to eliminate the duplication of tasks, resolve interagency disagreements, protect restricted information, and oversee the legality of special measures applied during the legal regime of martial law. Consequently, efforts to improve the legal regulation of the competencies of operational units within Ukraine's security and defense sector should focus on specifying the procedures for interagency cooperation, establishing mechanisms to delineate responsibilities, and ensuring the legality of operational-search activities—all without unjustifiably expanding their powers.

CONCLUSIONS

The study establishes that the competence of operational units within Ukraine's security and defense sector—under the legal regime of martial law—encompasses substantive, functional, procedural, and organizational components, the content of which is defined by legally established tasks, rights, and obligations. It substantiates the need to distinguish between operational-search, criminal procedural, intelligence, and counterintelligence powers based on the legal grounds for their exercise, the subject matter of the activities, decision-making procedures, and the scope of autonomy granted to the authorized units. It is demonstrated that the imposition of martial law shifts the priority of operational tasks and intensifies interagency cooperation, yet it does not create independent legal grounds for expanding the competence of these operational units. The study proposes improving the regulatory framework for joint operations by clearly defining responsible authorities, establishing procedures for the exchange of operational information, delineating responsibilities, and instituting mechanisms to oversee compliance with the law. Future research should focus on developing an organizational and legal mechanism to coordinate the activities of operational units with military command, eliminating the duplication of powers, and resolving interagency discrepancies under the legal regime of martial law.

REFERENCES

1. Verkhovna Rada of Ukraine. (2018). On national security of Ukraine (Law of Ukraine No. 2469-VIII). https://zakon.rada.gov.ua/laws/show/2469-19.
2. Verkhovna Rada of Ukraine. (2015). On the legal regime of martial law (Law of Ukraine No. 389-VIII). https://zakon.rada.gov.ua/laws/show/389-19.
3. Verkhovna Rada of Ukraine. (1992). On operational and investigative activity (Law of Ukraine No. 2135-XII). https://zakon.rada.gov.ua/laws/show/2135-12.
4. Verkhovna Rada of Ukraine. (2012). Criminal procedure code of Ukraine (Law of Ukraine No. 4651-VI). https://zakon.rada.gov.ua/laws/show/4651-17.
5. Mekh, Yu. V., Holovko, V. R., & Horobets, D. D. (2023). Administrative status of modern actors of the state security sector. Analytical and Comparative Jurisprudence, 5, 726–730. https://doi.org/10.24144/2788-6018.2023.05.130.
6. Lysko, T. D., & Levchenko, A. S. (2023). Competence of law enforcement agencies under the legal regime of martial law. Dnipro Scientific Journal of Public Administration, Psychology, Law, 2, 121–125. https://doi.org/10.51547/ppp.dp.ua/2023.2.20.
7. Yara, O. S., & Svitlychnyi, O. P. (2024). Functions of law enforcement agencies of Ukraine under martial law. Analytical and Comparative Jurisprudence, 4, 472–476. https://doi.org/10.24144/2788-6018.2024.04.78.
8. Hovorov, V. S. (2024). Current problems of the powers of military administrations under the legal regime of martial law. Law and Innovations, 1, 87–95. https://doi.org/10.37772/2518-1718-2024-1(45)-12.
9. Teremetskyi, V. I. (2023). Judicial control during pre-trial investigation in Ukraine: Legal nature and peculiarities under martial law. Bulletin of the Criminological Association of Ukraine, 2(29), 451–468. https://doi.org/10.32631/vca.2023.2.39.
10. Teremetskyi, V. I., & Bilinska, L. V. (2024). Legal principles of monitoring over a crime's commission while investigating the obtaining unlawful benefit. The Journal of Eastern European Law, 121, 23–31. https://doi.org/10.71404/2409-6415.121.03.
11. Mandziuk, O. (2025). Analysis of the specifics of the use of operational and investigative units of state border protection bodies during operations of the Defense Forces. Collection of Scientific Papers of the National Academy of the State Border Guard Service of Ukraine. Series: Military and Technical Sciences, 99, 25–40. https://doi.org/10.32453/3.v99i2.1869.
12. Kireieva, O. S. (2025). Certain issues of information and analytical support for the activities of operational and investigative units of the State Border Guard Service of Ukraine brought to the fore by the legal regime of martial law. Scientific Bulletin of Uzhhorod National University. Series: Law, 91, 308–313. https://doi.org/10.24144/2307-3322.2025.91.4.43.