The Concept and System of Operational Units within the Security and Defense Sector of Ukraine

Illia Stepanov,
private entrepreneur, Dnipro, Ukraine

Abstract. The article examines the concept, characteristics, and system of operational units within the security and defense sector of Ukraine. A comparison of the Laws of Ukraine "On National Security of Ukraine" and "On Operational-Investigative Activity" reveals that the mere inclusion of a state body in the security and defense sector does not automatically confer operational-investigative powers upon its structural units. The defining criteria for classifying a unit within this system are its organizational affiliation with an authorized state body and its legally established competence. It is proposed that operational units of the security and defense sector be defined as structural units of state bodies authorized by law to conduct operational-investigative activities in the interests of national security, law and order, and the protection of state interests. Key characteristics are identified, including: a specific functional purpose, a legal basis for employing overt and covert measures, established subordination, and oversight regarding compliance with the law. **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 Intelligence", "On Counterintelligence Activity", as well as works of domestic scientists who provide a comprehensive analysis of these provisions, structural-logical and system-functional methods were used. Results. The distinction between operational-search, criminal procedural, intelligence, and counterintelligence powers is substantiated based on the subject matter of the activity, legal grounds, implementation procedures, and the limits of competence. It is proposed that the system of units be examined from both organizational and functional perspectives. Based on functional purpose, a classification is established distinguishing between law enforcement, counterintelligence, intelligence, and security-oriented units; based on specialization, the classification includes units directly conducting operational-search measures, operational-technical units, internal and own-security units, as well as detective units (within the scope of their respective competence). It is concluded that organizational, legal, and functional criteria must be integrated to prevent an unwarranted expansion of the range of authorized entities and the duplication of powers.

Key words: operational units, security and defence sector of Ukraine, operational-search activities, legal status, competence of operational units, classification of operational units.

INTRODUCTION

Ensuring the national security of Ukraine requires coordinated action by state bodies authorized to detect, prevent, and halt threats to the state and society. Operational units play a significant role in carrying out these tasks; their activities involve gathering information regarding criminal offenses, countering intelligence and subversive activities, and protecting state interests. According to Article 12 of the Law of Ukraine "On National Security of Ukraine", the security and defense sector encompasses security forces, defense forces, the defense-industrial complex, as well as citizens and public associations that voluntarily participate in ensuring national security [1]. However, the fact that a state body belongs to the security and defense sector does not automatically grant its structural units the authority to conduct operational-search activities.

Furthermore, the legal framework governing the activities of operational units is defined primarily by the Law of Ukraine "On Operational-Search Activity", Article 5 of which establishes the list of units authorized to carry out such activities [2]. These include, in particular, relevant units within the National Police of Ukraine, the Security Service of Ukraine, the State Border Guard Service of Ukraine, the State Protection Administration of Ukraine, intelligence agencies, and other state bodies explicitly designated by law. At the same time, the law prohibits the conduct of operational-search activities by units that lack the requisite authority. Given the discrepancies between the composition of the security and defense sector and the statutorily defined scope of entities authorized to conduct operational-search activities, there is a need to establish clear criteria for classifying operational units within the security and defense sector of Ukraine.

In particular, the relationship between operational-search powers and criminal procedural powers requires separate examination, as Article 41 of the Criminal Procedure Code of Ukraine governs the participation of operational units in conducting investigative (search) actions and covert investigative (search) actions based on written instructions from authorized entities [3]. It should be noted that differences in the legal status, functional purpose, and organizational subordination of operational units complicate the development of a coherent scholarly approach to defining their position within the security and defense sector. Consequently, the issue at hand stems from the absence of a unified legislative definition of the term "operational units of the security and defense sector of Ukraine", as well as the need to distinguish between such units based on the nature of their powers and their areas of activity. In light of this, it is pertinent to examine the legal nature of these operational units, identify their key characteristics, and substantiate a framework for them, taking into account the provisions of current Ukrainian legislation.

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 Intelligence", "On Counterintelligence Activity", 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 defines the concept and key characteristics of operational units within Ukraine's security and defense sector are defined; furthermore, their respective powers are delineated, the composition and structure of the system of operational units are outlined, and criteria for their classification are established.

The validity and reliability of the research 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 certain 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 critically analyzing the available information.

RESULTS

The issues surrounding the definition and system of operational units within Ukraine's security and defense sector encompass questions regarding their legal status, organizational affiliation, functional purpose, and the delineation of their powers. Specifically, O. Romashko and O. Vlasov examined the regulatory foundations and principles governing the operation of Ukraine's security and defense sector, substantiating the significance of both general legal and sector-specific principles for the activities of its constituent elements [4, pp. 132–134]. Meanwhile, N. Tsybulnyk focused on the entities, functional components, and public administration mechanisms within the security sector [5, pp. 36–39]. However, these studies do not offer a distinct systematization of operational units based on their legislatively defined powers and organizational affiliation.

In their study of the state's law enforcement function in the taxation sphere, V. Teremetskyi and co-authors identify the duplication of powers, shortcomings in legal regulation, and insufficient information exchange as obstacles to cooperation among authorized entities [6, p. 6]. V. Chumak, V. Teremetskyi, and T. Popovych analyze the organizational and legal model of German policing in combating smuggling, describing the distribution of functions among federal and Land police bodies and the coordinating role of the Federal Criminal Police Office [7, pp. 30–31]. These studies inform the present analysis of competence and coordination, while their sectoral and comparative scope leaves open the classification of operational units across Ukraine's security and defense sector.

The legal status of operational units was specifically addressed by M. Hribov and A. Cherniak, who proposed a legislative definition of these units as entities engaged in countering crime, and classified them into overt and covert categories [8, pp. 10–15]. While they argued for the necessity of harmonizing provisions across operational-search and criminal procedural legislation, the scope of their research was largely confined to the activities of operational units within law enforcement agencies in the realm of crime prevention and suppression. Consequently, their proposed classification did not address the broader question of where these operational units fit within the overall structure of the security and defense sector – specifically, how their powers relate to the functions of intelligence and counterintelligence agencies. Furthermore, the research of Yu. Kramarenko is of significant importance for the development of the conceptual framework. His work analyzes the legal nature of operational-search legal relations, the composition of subjects, the organizational foundations of operations, and the distinctions between operational-search activity, intelligence, and criminal procedural activity [9, pp. 362–364]. He paid particular attention to the functioning of the operational units of the State Border Guard Service of Ukraine, as well as the differentiation between operational-search activity and criminal intelligence. Despite a thorough examination of the relevant legal categories, a comprehensive definition of the system of operational units across all components of the security and defense sector has not been the subject of a dedicated study.

S. Tikhonov and V. Vasylynchuk examined the stages of operational-search activity, substantiated their content, and proposed ways to improve the regulatory framework governing operational-search measures and the operational support of criminal proceedings [10, pp. 38–42]. Meanwhile, O. Denysiuk identified the characteristics of facilitating operational-search activity, defining the legal nature of the participation of individuals and legal entities in the execution of tasks assigned to operational units [11, pp. 147–150]. However, these works focus on specific aspects of the activities of operational units and do not address the issue of their systemic classification based on departmental affiliation, competence, and the nature of the functions performed. O. Farion examined the organizational aspects of the operations of operational units, developing an information model for the operational-search activities of units within the State Border Guard Service of Ukraine [12, pp. 82–84]. His research defined the hierarchical levels of operational-search units, the structure of information flows, and the specifics of internal and external information-analytical interaction. However, the model proposed by O. Farion covers the activities of only one state agency and does not include a comparative analysis of the organizational structure or the competencies of operational units belonging to other components of Ukraine's security and defense sector.

V. Yeromenko explored the specifics of operational-search activities under the legal regime of martial law, identifying challenges related to the regulatory framework and the organizational support of forces within Ukraine's

security and defense sector [13, pp. 344–347]. Nevertheless, he did not establish unified criteria for classifying the structural units of state agencies as part of the operational unit system of Ukraine's security and defense sector, nor did he provide a comprehensive differentiation of these units based on their functional purpose. Consequently, while existing research on this subject addresses specific legal, organizational, and functional aspects of operational-search activities, it fails to define the concept, composition, structure, and classification characteristics of operational units within Ukraine's security and defense sector – a gap that underscores the need for further study of this issue.

DISCUSSION

The concept of an operational unit within the security and defense sector of Ukraine is best understood through the combination of two primary criteria: organizational affiliation with a relevant state body and the possession of specific powers in the realm of operational-search activity. Article 12 of the Law of Ukraine "On National Security of Ukraine" defines the composition of the security and defense sector [1], while Article 5 of the Law of Ukraine "On Operational-Search Activity" establishes the list of units authorized to conduct such activity [2]. Consequently, the mere fact that a state body belongs to the security and defense sector does not, in itself, constitute grounds for granting its structural units operational-search powers. Specifically, M. Hribov and A. Cherniak view operational units as entities authorized by law to counter crime, arguing for the necessity of legally codifying their status and distinguishing between overt and covert units [8, pp. 10–15]. While acknowledging the decisive importance of legally established competence, we believe it is necessary to consider the broader functional purpose of operational units within the security and defense sector – units whose activities encompass countering criminal offenses, detecting intelligence and subversive activities, and ensuring state security. In light of the above, the term "operational units of the security and defense sector of Ukraine" is understood here to refer to structural subdivisions of relevant state bodies that are empowered by law to conduct operational-search activities in order to fulfill specific tasks related to national security, the maintenance of law and order, and the protection of state interests.

Accordingly, the key defining features of operational units within Ukraine's security and defense sector include: the legislative establishment of their powers; their organizational affiliation with an authorized state body; a specific functional purpose; the application of overt and covert measures as provided for by law; and the conduct of activities within the scope of their established competence. Furthermore, other significant characteristics include a defined chain of command, specific legal grounds for conducting operational-search measures, and mechanisms for overseeing compliance with the law. Thus, the distinction between operational units and other structural elements of Ukraine's security and defense sector should be based on a combination of organizational, legal, and functional criteria – among which the legally established competence holds decisive importance.

The legal framework governing the activities of operational units within Ukraine's security and defense sector consists of a set of legislative provisions that define the authorized entities, the grounds for conducting operational-search activities, the rights of these entities, and the guarantees ensuring the legality of their actions. In particular, Articles 5, 6, 8, and 9 of the Law of Ukraine "On Operative-Search Activity" [2] establish the subjects, grounds, and procedures for exercising operative-search powers, whereas Article 41 of the Criminal Procedure Code of Ukraine [3] regulates the participation of operative units in conducting investigative (search) actions and covert investigative (search) actions pursuant to written instructions from authorized entities. Consequently, it is our view that the distinction between operative-search competence and criminal procedural competence should be based on the legal grounds for undertaking the respective measures, the nature of the powers involved, and the degree of procedural autonomy afforded to the operative units.

In their examination of the stages of operative-search activity, S. Tikhonov and V. Vasylynchuk substantiated the need for legislative regulation regarding the search for and verification of operational information, the conduct of operational proceedings, and the provision of operative-search support for criminal proceedings [10, 38–42]. This underscores the interconnection between operative-search activity and criminal proceedings; however, these respective areas operate within distinct legal frameworks. In our opinion, operative-search powers must be distinguished from criminal procedural powers based on criteria such as the legal basis for their exercise, the decision-making process, the permissible methods for obtaining information, and the mechanisms for overseeing the legality of the actions taken.

Delineating the powers of operational units within Ukraine's security and defense sector also requires taking into account the provisions of the Laws of Ukraine "On Intelligence" [14] and "On Counterintelligence Activity" [15], which establish distinct tasks, the range of entities involved, and the legal foundations for these respective areas of activity. Unlike operational-search activity – which is directed toward fulfilling tasks stipulated by specific legislation – intelligence activity focuses on obtaining information in the interests of national security and defense, while counterintelligence activity focuses on the prevention, timely detection, and neutralization of threats to state security. It is our view that the proper delineation of the competencies of operational units should entail a legally grounded definition of their functional purpose, the scope of their activities, the limits on the application of special measures, and the procedures for interagency cooperation, all while ensuring that powers do not overlap.

Consequently, we propose defining the composition of the system of operational units within Ukraine's security and defense sector by cross-referencing the sector's organizational structure – as established in Article 12 of the Law of Ukraine "On National Security of

Ukraine" [1] – with the list of entities authorized to conduct operational-search activities, as set forth in Article 5 of the Law of Ukraine "On Operational-Search Activity" [2]. This system encompasses the authorized operational units of the National Police of Ukraine, the Security Service of Ukraine, the State Border Guard Service of Ukraine, the State Protection Administration of Ukraine, the Foreign Intelligence Service of Ukraine, and the intelligence body of the Ministry of Defence of Ukraine. At the same time, the inclusion of operational units from the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine, the Bureau of Economic Security of Ukraine, and the State Penitentiary Service of Ukraine requires taking into account the functions legally assigned to these bodies within the sphere of ensuring national security.

The structure of the system of operational units within Ukraine's security and defense sector can be analyzed at two levels: the organizational level, which reflects the affiliation of units with specific state bodies, and the functional level, which characterizes the areas in which they exercise their powers. Based on functional purpose, we propose distinguishing between operational units focused on law enforcement, counterintelligence, intelligence, and security/protection, in accordance with the specific tasks assigned to them by legislation. Consequently, we argue that the primary criterion for functional differentiation should be the core subject matter of a unit's activities; the use of similar operational methods does not imply that the scope of their powers or the legal grounds for exercising them are identical.

Furthermore, we propose using specialization as an additional criterion for classifying operational units. Based on this, it is appropriate to distinguish between units directly engaged in operational-search activities, operational-technical units, internal and personal security units, and detective units – all operating within the scope of their legally established competence. Organizational affiliation, functional purpose, and specialization should be applied in a consistent manner, as some units may combine multiple areas of activity while retaining their distinct legal status and defined chain of command. Thus, in our view, the proposed classification enables the differentiation of operational units based on their position within the state apparatus, the nature of their powers, and their practical tasks, thereby establishing a legal foundation for defining the composition and internal structure of the system of operational units within Ukraine's security and defense sector.

CONCLUSIONS

Based on the study's findings, the concept of "operational units" within Ukraine's security and defense sector is defined: these are structural subdivisions of authorized state bodies, vested by law with special powers to conduct operational-search activities aimed at ensuring national security, maintaining law and order, and protecting state interests. It is established that the defining characteristics of these operational units include: a legally enshrined mandate (competence), organizational affiliation, a specific functional purpose, a legal basis for employing both overt and covert measures, and the existence of mechanisms to oversee the legality of their operations. The study demonstrates the necessity of distinguishing between operational-search, criminal procedural, intelligence, and counterintelligence powers – differentiating them based on their scope of activity, legal grounds, implementation procedures, and the limits of each unit's competence. It is proposed that the system of operational units within Ukraine's security and defense sector be structured according to organizational and functional levels, categorized into law enforcement, counterintelligence, intelligence, and security/protection domains. Furthermore, the study justifies the use of organizational affiliation, functional purpose, and specialization as interconnected classification criteria; these serve to define the composition of the system, delineate competencies, and prevent the duplication of powers among operational units. Future research should focus on developing proposals to improve the legal and regulatory framework governing the activities of these operational units, clarifying their respective competencies, and establishing the organizational and legal mechanisms required for interagency cooperation.

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. (1992). On operational and investigative activity (Law of Ukraine No. 2135-XII). https://zakon.rada.gov.ua/laws/show/2135-12.
3. 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.
4. Romashko, O. M., & Vlasov, O. H. (2021). Principles of functioning of the security and defense sector of Ukraine. New Ukrainian Law, 6, 131–135. https://doi.org/10.51989/NUL.2021.6.19.
5. Tsybulnyk, N. Yu. (2023). Functional components of security sector administration in Ukraine. Internauka. Series: Juridical Sciences, 3, 34–41.
6. Teremetskyi, V., Hrechaniyuk, S., Nalyvaiko, L., Terekhov, V., Salmanova, O., Chuprikova, I., & Nazarenko, M. (2021). State policy of Ukraine in terms of implementing law enforcement function of the country in the taxation sphere. Journal of Legal, Ethical and Regulatory Issues, 24(Special Issue 1), 1–9. https://hdl.handle.net/11300/16438.
7. Chumak, V. V., Teremetskyi, V. I., & Popovych, T. G. (2023). Organizational and legal model of the activities of the police of Germany regarding anti-smuggling: Prospects for the implementation of the positive experience in Ukraine. The Journal of Eastern European Law, 110, 27–32. https://doi.org/10.71404/2409-6415.110.03.
8. Hribov, M. L., & Cherniak, A. M. (2018). Operational units of law enforcement agencies of Ukraine as subjects of combating crime. Bulletin of Criminal Justice, 4, 8–17.
9. Kramarenko, Yu. M. (2024). Relations in the field of operational and investigative activity: Legal and organizational aspects. Juridical Scientific and Electronic Journal, 12, 361–365. https://doi.org/10.32782/2524-0374/2024-12/83.
10. Tikhonov, S. V., & Vasylynchuk, V. I. (2022). Stages of operational and investigative activity. NaUKMA Research Papers, 9–10, 37–44. https://doi.org/10.18523/2617-2607.2022.9-10.37-44.
11. Denysiuk, O. O. (2022). The concept of assistance in the conduct of operational and investigative activity by operational units. Legal Journal of Donbass, 1, 146–152. https://ljd.dnuvs.ukr.education/index.php/ljd/article/view/241.
12. Farion, O. B. (2020). Information model of operational and investigative activity of operational units of the State Border Guard Service of Ukraine. Collection of Scientific Papers of the Center for Military and Strategic Studies of the National Defence University of Ukraine, 1, 81–85. https://doi.org/10.33099/2304-2745/2020-0/81-85.
13. Yeromenko, V. (2023). Specifics of conducting operational and investigative activity under martial law. Scientific Bulletin of Dnipropetrovsk State University of Internal Affairs, 2, 343–348. https://doi.org/10.31733/2078-3566-2023-2-343-348
14. Verkhovna Rada of Ukraine. (2020). On intelligence (Law of Ukraine No. 912-IX). https://zakon.rada.gov.ua/laws/show/912-20.
15. Verkhovna Rada of Ukraine. (2002). On counterintelligence activity (Law of Ukraine No. 374-IV). https://zakon.rada.gov.ua/laws/show/374-15.