

**SECTION 3
ADMINISTRATIVE LAW AND PROCESS;
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**СЕКЦІЯ 3
АДМІНІСТРАТИВНЕ ПРАВО І ПРОЦЕС;
ФІНАНСОВЕ ПРАВО; ІНФОРМАЦІЙНЕ ПРАВО**

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**SOME PECULIARITIES OF THE TASKS AND FUNCTIONS OF THE NATIONAL
GUARD OF UKRAINE IN THE COURSE OF THE EMERGENCY SITUATION**



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The article reveals the importance of the National Guard of Ukraine as one of the bodies that ensure the protection of the human civil rights and freedoms, law enforcement, preventing and fighting against crime, natural disasters, various kinds of accidents, disasters, explosions, epidemics and epizootics, epiphytotic, pollution, biological or bacteriological infection of a certain territory or objects. The article deals with tasks and functions focused on warning, prevention and response to emergency situations of war, social, technological and natural disasters. There are two main groups identified among them, they are: general (public safety, public order, fight against crime) and special (rescue of people, property, protection of life and health). The attention is paid to the management efficiency of chiefs and commanders, their headquarters and staff, aimed at the timely and full implementation of measures to step up the protection of public order, ensure the public security, consolidate the legality and prevent crime. In addition, the attention is devoted to special operations, namely, a set of operational, regime, military and other measures and actions carried out by law enforcement entities independently or interacting with other units under the consolidated guidance and with the shared objective. Thus, the objective is to stabilize the situation, to localize and remove the effects of the emergency situation of a certain type, to protect the objects of the national security: to ensure both human civil rights and freedoms and the legitimate interests of society and the state; to carry out special operations in the legal boundaries, in defined territory and time period; to establish the interaction with the population in order to provide its security, effective and fast normalization of the current operational environment, localization and removal of the effects of the emergency situation; to observe the requirements of the current legislation of Ukraine, morals and legal culture strictly and obligatory; to explain the basic methods, forms, measures and actions carried out by law enforcement entities. Besides the specified basic tasks, the additional ones are indicated as follows: the protection of the site of the special operation carrying out; criminal investigative, combat, informational, logistic and moral-psychological support of the special operations; the provision of the first emergency care to victims and their delivery to medical institutions and others.

Ключові слова : tasks and functions, the National Guard of Ukraine, emergency situations.

Бересток Б. П. Деякі особливості завдань та функцій Національної гвардії України під час надзвичайних ситуацій. У статті розкрито важливість Національної гвардії України як

одного з органів, що забезпечує охорону прав і свобод людини і громадянина, правопорядку, попередження та боротьбу зі злочинами, стихійними лихами, різного роду аваріями, катастрофами, вибухами, епідеміями та епізоотіями, епіфітотіями, забрудненнями, біологічне чи бактеріологічне зараження певної території або об'єктів. Розглянуто завдання та функції, спрямовані на попередження, запобігання та реагування на надзвичайні ситуації воєнного, соціального, техногенного та природного характеру. Серед них виділено дві основні групи: загальні (забезпечення громадської безпеки, охорона громадського порядку, боротьба зі злочинністю) та спеціальні (рятування населення, майна, захист життя та здоров'я). Акцентовано увагу на управлінській ролі начальників та командирів, їх штабів та робочих апаратів, діяльність яких спрямована на своєчасне й повне здійснення заходів щодо посилення охорони громадського порядку, забезпечення громадської безпеки, зміцнення законності, активізації боротьби зі злочинністю. Крім того, увагу приділено спеціальним операціям – комплексу оперативних, режимних, військових та інших заходів і дій, які проводять суб'єкти охорони правопорядку самостійно або взаємодіючи з іншими суб'єктами під єдиним керівництвом та з однією метою. При цьому, метою є нормалізація обстановки, локалізація та ліквідація наслідків надзвичайної ситуації певного виду, захист об'єктів національної безпеки: охорона та захист прав та свобод людини і громадянина, законних інтересів суспільства та держави; проведення спецоперації у правовому полі, на визначені території та часовий період; налагодження взаємодії з населенням задля забезпечення його безпеки, ефективною та якнайшвидшою нормалізації оперативної обстановки, локалізації та ліквідації наслідків надзвичайної ситуації; чітке дотримання вимог діючого законодавства України, моралі та правової культури; роз'яснення основних прийомів та способів, форм та методів діяльності суб'єктів охорони правопорядку. Окрім зазначених базових завдань, зазначено допоміжні: охорона місця проведення спецоперації; оперативно-розшукове, бойове, інформаційне, тилове й морально-психологічне забезпечення спецоперації; надання першої невідкладної допомоги постраждалим і доставляння їх до медичних установ та інші.

Ключові слова : завдання та функції, Національна гвардія України, надзвичайні ситуації.

Introduction. Today in Ukraine there is a difficult situation in the midst of economic, social, demographic and political problems, as well as military conflicts. Our country is a relatively young, independent, democratic, law-governed state [1], which needs quite a long time to overcome the crisis, bring the economy to a sufficiently high level and ensure its further development.

It should be noted that economic problems are followed by the other important state and society ones, namely military, social, technological and natural. The inability to solve such problems immediately and unconditionally can lead to a "disease" of the country, when the accomplishment of the task becomes more difficult and requires more resources.

In such a complicated period, the problem of protecting human and civil rights and freedoms becomes more topical. The law enforcement can serve to overcome the negative moments of social and economic development of the country, to solve the pressing economic and international problems effectively and quickly, to counteract corruption, crime, political extremism and terrorism.

It is vividly seen that independent Ukraine is active in reforming the law enforcement system,

including the development of law enforcement forces (the National Police of Ukraine, the National Guard of Ukraine, the Security Service of Ukraine, the State Border Guard Service of Ukraine, the Office of the State Protection of Ukraine, the Military Service of Law Enforcement in the Armed Forces of Ukraine) that can solve the existing social and other problems quickly and effectively. Crimes take the leading place among such problems. Besides, natural disasters, various types of accidents, catastrophes, explosions, epidemics and epizootics, pollution (radiation and chemical), biological or bacteriological contamination of a certain territory or objects can be added here.

All of this, taken as a whole or separately, is a direct cause of the emergency situation with various difficult problems of localization that create the special conditions, make corresponding complications and tension to the activities of the officials, staff and servicemen of the law enforcement forces, turn their attention away from the current work, require significant efforts, means, reserves, optimization of the operational and service activities, development of the new forms and methods of management at all levels of subordination [2, p. 3].

Thus, sudden changes and complications of the operational environment are usually caused by a variety of special conditions on individual sites, in settlements, districts or areas, in certain regions or throughout the country. At the same time, it is possible to observe a violation of a stable rhythm of life of the population; the life and health threatening of many people, considerable material damage, disorganization of the work of enterprises, institutions, organizations, the whole infrastructure, the tension in society, the level of crime and other violations of public order are observed. But the National Guard of Ukraine must be ready not only for such sequence of events to perform additional complex tasks and deal with high moral and physical activity, but also for other difficult conditions.

The researchers on certain issues related to the tasks and functions of the National Guard of Ukraine are: Shevchenko O.V., Konev O.Yu., Slipchenko M.O., Savochkina O.D., Lazutka V.I., Talalay D.V., Mykytenko V.V., Kobylinsky S.D. and others. However, there is a lack of an integrated approach to the study of this topic, which becomes an obstacle to the practical implementation of the developed theoretical views.

Therefore, the problem under investigation is very urgent today, it requires the complex study and development of the general theoretical aspects in order to implement them in practice.

Presentation of the basic material of the research. The prevention and response taken to the consequences of emergency situations by the National Guard of Ukraine are generally caused by their nature. In some situations, they act as the originators of the decisions of highest governance bodies, emergency and state commissions (for example, the participation in the implementation of measures of the military state legal regime, the participation in the controlling of mass riots, accompanied by the violence against citizens, the participation in the elimination of the consequences of the emergency or crisis situations on the secured facilities; the participation in maintaining or restoring of the law enforcement in the areas of the emergency situations of the technological or natural nature that can cause life and health threatening, etc.), while in others they are the direct organizers and implementers of the elimination or minimization of the consequences of the emergency situations (such as the protection of the constitutional system of Ukraine, the integrity of its territory from the attempts to change it violently, the protection of the special goods, enlisted by the Cabinet of Ministers of Ukraine, the protection of the diplomatic missions, consular offices of the foreign states, representatives of the international organizations in Ukraine, the

protection of the nuclear facilities, nuclear materials, radioactive wastes and other sources of the ionizing radiation of state property, important state objects, enlisted by the Cabinet of Ministers of Ukraine, etc.).

As can be seen from the above, the complications of the operational environment inevitably entail the establishment of an extraordinary special administrative and legal regime on the basis of a resolution of the authorized public body or temporary restrictions, which are applicable in such cases in accordance with the current legislation of Ukraine.

We can define two groups among the tasks of the National Guard of Ukraine in the case of the complication of the operational environment, they are:

- general: public safety, public order protection, crime prevention;
- special: rescue of the population, property, protection of life and health [3].

Concerning the first group, the following tasks are distinguished: strengthening of the protection and defense of the important state establishments, confinement facilities of persons taken into custody and / or sentenced to imprisonment, storage of weapons; strengthening of the protection of diplomatic missions and consular offices in Ukraine; the control of the activity of the illegal organizations, organized groups, criminal organizations, terrorist groups and other anti-social elements; ensuring of the state security and protection of the state border, etc. In this case, we speak about the enhanced form of service or conditions for the conduct of the military service of the National Guard of Ukraine.

As for the second group of tasks, it involves the evacuation of the population, the registry of the dead, the identification of corpses, the protection of the observer forces, the raising of the broader public awareness in order to prevent panic, alarms, fire settings and so on.

In order to implement these tasks more effectively, the public order forces must receive complete and comprehensive information on the state of the operational environment constantly and continuously. In addition, high state of combat readiness, rapid maneuvering by all forces and means, fast and efficient decisions are required [4, p. 5-6]. The latter in general depends on the careful preparation for the activity in special circumstances.

When the activity of the National Guard of Ukraine is provided by the special conditions, the managerial role of the chiefs and commanders, their headquarters and staff, whose activities are aimed at timely and full implementation of the measures to strengthen the public order protection, public security, law enforcement, and the intensification of the fight against crime, also increases. All of this is

the result of the existence of such principles as legality, rule of law, unified authority, centralized management as for the situation when the initiative is taken by the subordinates while their accomplishing the tasks, the complexity of the use of forces and means, confidence and persistence in the implementation of plans, fast and flexible response to changes in operational and emergency situations. Therefore, Ukraine's national interests in the field of the public security require the unification of the efforts of both society and state, the development of complex legal, political, organizational, social and other measures for the effective control over crimes and offenses, the protection of the rights and freedoms of citizens, the legitimate interests of society and the state from the illegal encroachments, monitoring of the state of the public order, control and supervision over the specified activity.

It is worth mentioning that under such conditions the special operations, certain actions or measures of the National Guard of Ukraine take on special significance. In this case, such operations should be regarded as a complex of operational, regime, military and other measures and actions carried out by the law enforcement entities independently or in the cooperation with other entities under the unified guidance and with the common purpose. It should be noted that the special operation is a set of criminal investigative, combat, military and other actions and activities of the law enforcement entities, agreed in accordance with the common plan and interrelated by the single purpose and the period of the implementation in cooperation with other units, services or independently in the circumstances of a certain complication of the operational environment or in the case of the emergency situation in order to overcome this situation, as well as protecting the rights and freedoms of citizens, the interests of the society and the state from the existing and potential offences.

Consequently, the modern special operation of the law enforcement agencies is a set of actions and measures aimed to achieve the corresponding, specific, concrete, expected result, which serves as the main goal. In the case of the emergency situations, the National Guard of Ukraine is empowered and should interfere with so-called "agents", namely, the phenomena and actions that lead to the conditions and grounds for the organization and execution of a special operation. Its execution is based on the principles that reflect the goal, that is, the necessary result of such activity [5, p. 40-72].

According to Laptiy V.A., the purpose of a special operation is the execution of tasks that arise in connection with the emergency situations, namely, the elimination of these situations and consequences

[2, p. 99]. In addition, Traskovsky V.L. and Piasetsky AI also highlight the goal of protecting the legitimate rights and interests of citizens and public relations from unlawful encroachments [6, p. 220].

It should be noted that a special operation not only responds to the emergency situations and their consequences, but also acts as a special form of protection of the human and civil rights and freedoms. It is the only possible way, which ensures this requirement of the provisions of the Constitution of Ukraine in the case of a complicated operational situation by means of a set of various measures. Therefore, the purpose of a special operation is, firstly, the activity aimed to eliminate the negative consequences of the emergency situations and, secondly, the procedure for the protection of the national security objects [7]. The indicated measures allow the National Guard of Ukraine to act effectively and correctly during the complicated operational environment. Only the active situations can prevent the emergency and quickly eliminate or minimize its consequences.

In general, an emergency situation is a deviation from the normal living conditions or the functioning of the national security objects, which contains a set of the negative factors and requires the rapid response. In this way, it acts as a factor in the rapid response by the law enforcement units, directing their activities to prevent such a situation and to eliminate or minimize the consequences in the course of a special operation. Thus, the elimination of the consequences is the primary outcome, the priority task and the essence of such a special operation for the law enforcement forces.

Consequently, the activity of the National Guard of Ukraine in the course of the special operations is aimed to stabilize the situation, to localize and remove the consequences of the emergency situation of a certain type. At the same time, such activity involves the preservation and protection of the basic life values of the society, which enable its existence. This is the primary objective of the activity of the law enforcement entities, and the list of such values is reflected in the concept of "the objects of the national security" [7]. Therefore, the special operation of the National Guard of Ukraine is the only possible way to stabilize the operational situation, to localize and remove the consequences of the emergency situation, as well as to ensure the protection of the objects of the national security.

Taking into account all mentioned above, the purpose of a special operation conducting is the considered, expected and desirable result of the activity of the National Guard of Ukraine in the case of the emergency situations, which is aimed to stabilize the operational situation, to localize, remove

or minimize the consequences of such situations, and to ensure the protection of the objects of the national security [8, p. 88]. The attempt of the National Guard of Ukraine to achieve the objectives of the special operation forms the mandatory directions and tasks. Such activity regulates the social processes and establishes its functions, which reveal the essence and features of the activity. They reflect the directions of the impact of the special operation on the negative factors, which allows to ensure the arrangement of this type of the social relations [9, p. 107].

Thus, the basic tasks of the special operation of the National Guard of Ukraine are the operational prevention and response to the emergency situations of social, military, technological industrial and natural origin, as well as the protection of the national security objects. The latter include: to protect both human and civil rights and freedoms and the legitimate interests of the society and state; to carry out special operations in the legal boundaries, in defined territory and time period; to establish the interaction with the population in order to provide its security, effective and fast normalization of the current operational environment, localization and removal of the effects of the emergency situation ; to observe the requirements of the current legislation of Ukraine, morals and legal culture strictly and obligatory; to explain the basic methods , forms, measures and actions carried out by law enforcement entities, etc.

There are also additional facilities aimed to carry out the basic tasks properly, they are: to ensure the quick and unimpeded delivery to the territory of the special operation of military units, law enforcement forces and other state bodies involved in its implementation; to protect the area of the special operation; to support crime investigation, combat, informational, logistic and moral-psychological aspects of the special operations; to provide the first emergency care to the victim and delivery to the medical institutions; to promote the staff involved in the special operation (for example, to establish the service benefits and additional payments, to provide with the advance leave, to award for long and good service); to take the combat alert on the adjoining territories, in particular, when there are the potentially dangerous objects; to establish a clearly defined system of control of forces and means of the law enforcement forces during the conduct of a special operation; to ensure the preservation of the state secrets and confidentiality of the content of the special operations measures, when their promulgation may inflict harm to its participants or the purpose of a special operation and others [10, p. 51-52].

Therefore, the implementation of the complex of the basic and additional tasks of the special operation

of the National Guard of Ukraine ensures its proper conduct, the fulfillment of certain tasks and functions and provides with the opportunity to identify and eliminate the negative impact of the certain types of the emergency situations concerning the human rights, freedoms and the legitimate interests of the state and society.

It is worth mentioning that changes in the state and society require a continuous process to improve the administrative and legal principles of the activity of the National Guard of Ukraine both in the implementation of the current tasks and objectives in the current complex operational environment. In this case, the servicemen of the National Guard of Ukraine should use the legal methods for the protection of the human and civil rights, freedoms and the legitimate interests of the state and society in the field of public safety, public order protection, crime control, and so on.

According to Tsykalevych V.M., public order is a necessary condition for the implementation of the human and civil rights and freedoms in a democratic society. The forms and methods, techniques and means of protecting public order should be within the legal limits of the human and civil rights and freedoms. In addition, the scientist considers the real reliable protection of the legitimate rights, freedoms and interests of man and citizen to be the main criterion for assessing the results of the work of the law enforcement agencies [11, p. 7].

Conclusions. Taking into account the aforementioned, the complications of the operating environment of the activity of the National Guard of Ukraine include: the situations or circumstances caused by the negative social, military, technological or natural phenomena, which constitute the increased danger to the life and health of people, the proper functioning of the state establishments, public institutions and the environment and when it is necessary to take the appropriate measures to stabilize, localize the operational environment and to eliminate or minimize the consequences of such emergencies.

It should also be noted that the diverse and specific nature of the activities of the National Guard of Ukraine in the course of the arrangement and conduct of the special operations requires specific administrative and legal regulation of the management processes and subsequent scientific support. That is why the main objective of the further scientific research of the administrative and legal principles of the activity of the National Guard of Ukraine is to achieve the maximum effectiveness of such activities with the minimal expenses of working time, material, financial and labor resources, life and

health of military staff and to ensure a high level of their combat readiness.

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