

SUBJECTS OF ATTRACTING AND USING INTERNATIONAL MILITARY AID IN UKRAINE

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Annotation. The article is devoted to clarifying the subject composition of the involvement and use of international military aid in Ukraine. It was determined that the relevance of studying this issue is due to the need to minimize corruption risks during the involvement and use of international military aid, as well as to ensure the transparency of these processes in order to build trusting legal relations between Ukraine and the countries that provide such aid. Given the lack of comprehensive research on this issue, the basis of the study is the legislative and by-laws of Ukraine, which define the powers of the entities that participate in the involvement and use of international military aid. It was found that until 2024, despite 2 years of war, the concept of “international military aid” was absent in the legislation of Ukraine, which made it possible and complicated to develop and approve the procedure for attracting and using international military aid. It was emphasized that with the adoption by the government of Resolution No. 168 on February 13, 2024, the powers and limits of responsibility of the subjects of the general (the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine) and special (the National Security and Defense Council, the Ministry of Defense of Ukraine, the Armed Forces of Ukraine) competence in the field of attraction and use of international military aid. It was concluded that, in practice, the above-mentioned subjects’ implementation of their powers will contribute to the transparent receipt, distribution of such aid, its targeted use, and the preparation of appropriate reporting for partner countries.

Key words: international military aid, military administration, Ministry of Defense of Ukraine, Armed Forces of Ukraine.

1. Introduction.

Russia’s aggression against Ukraine became a catalyst for revising the country’s military doctrine and security strategies. In response to the threat of Russian aggression, Ukraine has determined its goal of joining NATO, seeking to strengthen its defense capabilities. Large-scale reforms in the security and defense sector of Ukraine include significant development of military infrastructure and improvement of military-technical potential. Extremely important factors in this process are the receipt of significant military aid from the USA and the EU [1, p. 137]. The receipt of a large amount of military aid, the high level of corruption, which significantly affects the effectiveness of its use for the needs of the state’s defense, as well as the insufficient openness of the processes of distribution and monitoring of the use of military aid, have actualized the issue of developing and approving the mechanism for attracting and using the latter.

Thus, until the middle of February 2024, there was no separate mechanism for attracting and using military aid in the national legislation, for this purpose the provisions of the legislation regulating the attraction of international technical assistance and humanitarian aid were used. At the same time, on February 13, 2024, the Cabinet of Ministers of Ukraine approved the Procedure for organizing the interaction of the central executive authorities and other state bodies regarding the attraction, receipt, transfer, accounting, monitoring and control of the use of international military aid to meet the needs of the security and defense forces during the period of martial law. This by-law not only regulates the procedure for attracting, using and monitoring international military aid, but

also defines the subjects involved in such a procedure accordingly. This significantly simplifies the identification of responsible persons in this direction and should increase the efficiency of attracting, using and monitoring international military aid by ensuring the transparency of such a procedure for partner countries. Therefore, it is obvious that the approval of the above-mentioned by-law by the government was the need of the hour.

2. The aim of the work.

The purpose of the article is to clarify the subjects of attracting and using international military aid in Ukraine in accordance with the latest changes in national legislation.

3. Analysis of scientific publications.

The analysis of the latest research and publications shows that the issue of the subject composition of the involvement and use of international military aid is presented fragmentarily in the scientific doctrine, since until 2024, the actual concept of “international military aid” did not exist in the legislation of Ukraine. However, scientists (V.Y. Pashynskyi, S.M. Melnyk, etc.) paid attention to the legal status of higher state authorities in the field of defense. This state of scientific development of the mentioned issue testifies not only to its novelty, but also to the need for its more detailed study.

4. Review and discussion.

Increasing the capabilities of the Armed Forces of Ukraine, the territorial defense forces in their composition, and other components of the defense forces to fulfill the tasks assigned is a priority of the state policy in the military sphere. Accordingly, one of the tasks defined by the Military Security Strategy is the development of capabilities for receiving assistance from foreign partners and providing it to other states [2]. After Russia's new invasion of Ukraine in February 2022, states provided Ukraine with “unprecedented” aid and support. Evidence of its scope is the fact that almost fifty contributor states have invested more than 45 billion US dollars in the defense of Ukraine. Moreover, for the first time in history, EU countries approved the provision of non-lethal and lethal weapons through their European Peace Fund (EPF) [3]. In the medium-term perspective, Ukraine's task is to integrate the state's defense capabilities, in particular through rational planning and effective use of available defense resources and international aid [4, p. 187].

Entities participating in the procedures of attracting, receiving, distributing and controlling the targeted and effective use of military aid are subjects of the administrative and legal support of the defense of Ukraine. V.Y. Pashynskyi proposes to understand this concept as a system of public administration entities that, with the help of administrative and legal means, methods and procedures, determine and organize the implementation of state policy in the field of defense, which covers all spheres of public life, and is aimed at preparing for defense of the state, its armed defense in case of armed aggression or armed conflict. The specified subjects can be classified into subjects of general competence and special competence. The former include the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, local self-government bodies, while the latter include the National Security and Defense Council of Ukraine (hereinafter – NSDC), the Ministry of Defense of Ukraine, the Armed Forces of Ukraine, military formations and others [5, p. 149–150].

According to Art. 102 of the Constitution of Ukraine The President of Ukraine is the head of the state and speaks on its behalf. The President of Ukraine is the guarantor of state sovereignty, territorial integrity of Ukraine, compliance with the Constitution of Ukraine, human and citizen rights and freedoms. It is the above-mentioned constitutional norm that is key in determining the scope of powers of the head of state.

As noted by S.M. Melnyk, the President of Ukraine actually heads the system of subjects of military administration and, carrying out systematic management of it, he himself acts as a kind of subject

of military administration with powers determined for the organization and functioning of the country's security and defense sector [6, p. 142]. The powers of the head of state include the adoption of a decision on the introduction of martial law, appointment to positions and dismissal from the positions of the higher command of the Armed Forces of Ukraine. The President of Ukraine also has powers in the field of conscription for conscript military service and dismissal from it, fairly broad rule-making powers related to the organization and functioning of military administration entities, and control powers over the main military administration entities. In particular, as the Supreme Commander of the Armed Forces of Ukraine, the President issues orders and directives on defense issues [6, p. 142–144]. The control powers of the head of state are discussed in Art. 5 of the Law of Ukraine "On the National Security of Ukraine", according to the content of which he can exercise control over the security and defense sector directly and through the NSDC and advisory, advisory and other auxiliary bodies created by it [7].

According to the Constitution of Ukraine, the Verkhovna Rada of Ukraine is the legislative body of the state. In July 2022, the Verkhovna Rada of Ukraine established the Temporary Special Commission of the Verkhovna Rada of Ukraine on monitoring the receipt and use of international material and technical assistance during the war (hereinafter – Temporary Commission). Its tasks included: 1) preparation and submission to the parliament of legislative initiatives to create a model of parliamentary control over the use of international material and technical assistance, in particular, weapons provided by international partners to Ukraine to fight against Russian military aggression, with the aim of ensuring transparency and the legality of the process of using the provided international material and technical assistance during the war; 2) collection and analysis of information for holding parliamentary hearings on cases of improper or non-targeted transportation, distribution or use of international material and technical assistance (in particular, weapons provided by international partners (allies) of Ukraine during martial law) [8]. In April 2023, the Temporary Commission published the first report on its work. According to it, the work of the Temporary Commission included cooperation with representatives of state bodies that directly deal with issues of logistics, distribution, accounting, monitoring and use of weapons and military equipment within the framework of international logistical assistance, in particular the Ministry of Defense, the Main Directorate of Intelligence of the Ministry of Defense, the Armed Forces of Ukraine and The General Staff of the Armed Forces of Ukraine, the Command of the Special Operations Forces of the Armed Forces of Ukraine, the Command of the Logistics Forces of the Armed Forces of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Infrastructure of Ukraine and other central executive authorities [9].

On July 13, 2023, in accordance with the Resolution of the Verkhovna Rada of Ukraine "On some issues of parliamentary control over the receipt and use of international material and technical assistance during martial law" No. 3242-IX, the above-mentioned Temporary Commission completed its work, but a new one was created [10]. In February 2024, the parliament considered the report of the new Temporary Commission.

The Cabinet of Ministers of Ukraine, in accordance with the national legislation, implements measures to strengthen the national security of Ukraine, develops and approves state programs on these issues, implements measures to ensure the combat capability of the Armed Forces of Ukraine, takes measures to ensure the defense capability of Ukraine, equipping the Armed Forces of Ukraine and others established in accordance with the law military formations (Art. 20 of the Law of Ukraine "On the Cabinet of Ministers of Ukraine") [11]. In order to ensure the fulfillment of the tasks entrusted to the government, the latter approved several important by-laws that regulate the procedure for Ukraine to attract and receive international military aid, in particular: 27.12.2018 No. 1208 and the Procedure for organizing the interaction of central executive authorities and other state bodies regarding the attraction, receipt, transfer, accounting, monitoring and control of the use of international military aid to meet the needs of the security forces and defense forces during the period of martial law from 13.02.2024 No. 168. In addition, the Cabinet of Ministers of Ukraine is entrusted with the authority to coordinate and control the implementation of tasks in the field of military security in relation to the development of the institutional capabilities of the Ministry of Defense of Ukraine and other management bodies of the defense forces [2]. Thus, for this purpose, in 2022, the Coordination Center for the Provision of Security and Defense Forces of Ukraine was



established by a government resolution. The latter is a temporary consultative and advisory body of the Cabinet of Ministers of Ukraine, which, in accordance with the tasks assigned to it, collects, summarizes, and analyzes information related to the provision of the security and defense forces of Ukraine; formulates proposals and recommendations regarding the provision of security and defense forces of Ukraine for consideration in the work of representatives of central and local bodies of executive power, other state bodies, enterprises, institutions and organizations, etc. [12].

If we analyze the Plan of Priority Actions of the Government for 2024 approved by the Cabinet of Ministers of Ukraine dated February 16, 2024 No. 137-p, then one of the government's steps for 2024 is to deepen cooperation with foreign partners in order to attract aid and purchase weapons and military equipment, respectively to the updated needs of the security and defense forces. The indicators of the fulfillment of the specified task are defined as, firstly, the provision of new packages of military aid to Ukraine by the partner states, secondly, the expansion of the range of military aid received and the increase in the production of the necessary weapons and military equipment (item 64) [13].

In accordance with the Law of Ukraine "On the National Security and Defense Council of Ukraine" dated 05.03.1998, the competence of the NSDC covers the development and consideration at its meetings of issues related to the sphere of national security and defense, and submission of proposals to the President of Ukraine, decision-making on material, financial, personnel, organizational and other measures to ensure the implementation of national security and defense measures [14].

In accordance with Part 3 of the Regulation on the Ministry of Defense of Ukraine approved by the Resolution of the Cabinet of Ministers of Ukraine dated November 26, 2014 No. 671 The Ministry of Defense of Ukraine ensures the vital activities of the Armed Forces, their functioning, combat and mobilization readiness, combat capability, preparation for the performance of tasks assigned to them, deployment, staffing and training, supply of weapons and military equipment, maintenance of serviceability, technical suitability, carrying out repair and modernization of the specified weapons and equipment, material, financial, other resources and property in accordance with the needs determined by the General Staff of the Armed Forces within the limits of the funds provided for in the state budget, and exercises control over their effective use, organizes the performance of works and the provision of services in the interests of the Armed Forces; and according to the Regulation provides for the acceptance into service (supply, operation) of the Armed Forces of weapons, military and special equipment; organizes the receipt of international technical assistance in the military sphere, supervises the implementation of relevant programs (projects); carries out international cooperation in military-political, military-technical and other areas with relevant bodies of foreign states and international organizations, coordinates and controls the organization and implementation of military cooperation [15]. Since the beginning of the full-scale invasion of the Russian Federation on the territory of Ukraine, the organization of attracting international aid for the security and defense forces of our country, as well as the organization of training of the personnel of the Armed Forces of Ukraine abroad, have become priority areas of activity of the Ministry of Defense. Currently, in accordance with the resolution of the Cabinet of Ministers of Ukraine dated 13.02.2024 No. 168, both the Ministry of Defense and the central bodies of the executive power, other state bodies (for example, the National Guard of Ukraine, the Security Service of Ukraine, the State Emergency Service, etc.) can initiate the receipt of international military aid). That is, the Ministry of Defense is not the only entity that can form a request for the provision of international military assistance, taking into account existing needs. However, in order to coordinate the actions of the central executive authorities and other state bodies, issues regarding the involvement of international military aid may be referred to the Coordination Center for the Provision of Security and Defense Forces of Ukraine.

The Armed Forces of Ukraine, in accordance with Art. 1 of the Law of Ukraine "On the Armed Forces of Ukraine", is a military formation that, according to the Constitution of Ukraine, is entrusted with the defense of Ukraine, the protection of its sovereignty, territorial integrity and inviolability [16]. The Armed Forces of Ukraine are organizationally composed of military command bodies, units, military units, higher military educational institutions, military educational units of higher education institutions, institutions and organizations (Art. 3). Separately, within the structure of the Armed

Forces of Ukraine, military management bodies function, which are entrusted with the functions of forming a generalized need for international military aid, receiving, accounting, distributing, monitoring and controlling the use of international military aid by classes of supply. Such bodies are determined by the Commander-in-Chief of the Armed Forces on the proposal of the General Staff of the Armed Forces.

The General Staff of the Armed Forces of Ukraine determines priorities and plans to provide the Armed Forces with types of material resources by supply classes, the accumulation of non-perishable stocks, controls the acquisition, use and renewal of non-perishable stocks [17]. In particular, the General Staff forms the needs for logistical support of the Armed Forces of Ukraine. This document is approved by the Chief of the General Staff of the Armed Forces of Ukraine and approved by the Commander-in-Chief of the Armed Forces of Ukraine. The formed document is delivered through the relevant bodies, structural units of the Ministry of Defense of Ukraine to the defense attaché at the embassies of foreign countries, to the European Command (EUCOM), the International Coordination Center for Donor Aid and other units that take care of the provision of material and technical assistance. From these structural divisions and organizations, information is provided to partner countries, which make decisions about provision.

5. Conclusions.

Thus, the state leadership is aware of the importance of ensuring transparency in the process of attracting and using international military aid. In accordance with the latest legislative changes, the mechanism for attracting and using international military aid includes subjects of general competence – the parliament, the head of state, the government and subjects of special competence – the National Security and Defense Council of Ukraine, the Ministry of Defense of Ukraine, the Armed Forces of Ukraine (General Staff and Commander-in-Chief of the Armed Forces of Ukraine, etc.). Government Resolution No. 168 dated February 13, 2024, which for the first time enshrined the concept of “international military aid” in the legislation of Ukraine and defined the procedure for the organization of interaction between central executive bodies and other state bodies regarding the attraction, receipt, transfer, accounting, monitoring and control of use of international military aid to meet the needs of security forces and defense forces during the period of martial law, demarcates the spheres of responsibility of the above-mentioned subjects. It is obvious that the implementation of the specified order in practice will allow not only to minimize corruption risks accompanying these processes, but also to increase the trust of partner countries that provide military aid.

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