

THE ADMINISTRATIVE AND LEGAL SUPPORT'S PRINCIPLES OF CIVIL-MILITARY COOPERATION IN PREPARATION FOR MILITARY SERVICE

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Summary

This article aims to define and characterize the distinctive principles of administrative and legal support for civil-military cooperation in military service preparation. Throughout the article, the author employs comparative legal, formal dogmatic, and structural legal methods, alongside modeling. These methods, based on a systematic approach, enable an integrated examination of the phenomena and processes under study, considering their interrelationships.

The author stresses the importance of principles that facilitate an optimal balance between the interests of individuals, the military, and the State. The modeling process of administrative and legal support principles for civil-military cooperation in military service preparation must account for the interplay and correlation among these categories.

Key principles identified include the consistency and efficiency of administrative and legal support, balancing private and public interests, immanence, unification, consideration of command unity and continuity in military administration, a three-component military-pedagogical goal, and an integrative nature.

Key words: administrative and legal support, civil-military cooperation, military service preparation, principles, Defense Forces, martial law legal regime.

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1. Introduction

The primary objective of the Defense Forces, alongside consolidated civil society and the State, is to overcome the aggressor state, the Russian Federation. Central to thwarting Russian armed aggression is the timely fortification of the Armed Forces of Ukraine and other military entities with well-trained reserves, possessing essential knowledge, skills, and capabilities for effective combat operations, coupled with a strong motivation to execute assigned duties. This necessitates an adaptable and comprehensive training system for Ukrainian citizens in military service, capable of encompassing a broad spectrum of service-eligible individuals and incorporating the latest advancements in military technology and armaments.

An analysis of the legal framework for military service preparation reveals eclectic and conflicting legal provisions governing the State and public authorities' actions in this area.

Principles play a pivotal role in the structure of legal support, serving as fundamental guidelines for the activities of legislators and law enforcement agencies. In the realm of administrative and legal support for civil-military cooperation in military service preparation – a field intertwined with the curtailment of human and civil rights upon enlistment – it is crucial to prioritize principles that strike an optimal balance between individual rights, military needs, and State interests. Accordingly, this article seeks to identify and elaborate on specific principles

deemed essential for administrative and legal support in this context, utilizing comparative legal, formal dogmatic, and structural legal methods, as well as modeling.

The article's goal is to define and characterize these unique principles of administrative and legal support for civil-military cooperation in military service preparation.

2. Main part

The category of legal support's principles attracts the attention of Ukrainian scholars, whose research reflects the understanding of the essence and content of the leading principles of law application and law-making activities. As M. Kozyubra points out, the genesis of the principles of law is inextricably linked to human activity, being the product of its implementation, because principles, like law, are the product of human activity; their formation took place in the process of interaction, communication between people, mutual coordination of their behavior and mutual responsibility for it, along with the formation of law itself (*Kozyubra, 2017, p.144*). Systems of principles inherent in various spheres of social relations are usually considered from the standpoint of emergence, the essence of which can be manifested in the fact that the action of each principle creates conditions for the action of another principle, and this, in turn, makes it impossible for them to function independently (*Shapenko, Raychuk, 2020: 28*).

Legal scholarship has developed a well-established idea that the principles that exist in law and determine the regularities and peculiarities of legal phenomena and processes are manifested at several levels. The first level of the principles implementation covers the most global ones, which are general legal principles and take into account the regularities of legal phenomena, fundamental provisions of the Constitution of Ukraine and international law. Such principles include, in particular, the principles of the rule of law, democracy, equality, humanism, etc. (*Koropatnik, 2023*). The other levels of implementation of the principles may be of a cross-sectoral, sectoral or subject matter nature, and it is their content that generates the greatest number of discussions.

The difficulty of defining the principles of administrative and legal support for civil-military cooperation in the area of preparation for military service is related to the presence of three complex social phenomena in the category under study. Firstly, it is administrative and legal support as a component of legal support, which has a number of features inherent in legal support. Secondly, it is a complex and extensive activity in the field of civil-military cooperation, which enables the military to achieve the desired end result by coordinating actions, synchronizing efforts and avoiding or timely resolving conflict situations between civilians and the military, thus combining military operations and the process of achieving the goal through political settlement (*Vasyukova, 2017: 85*). And thirdly, it is the preparation for military service, which is acutely relevant under the legal regime of martial law, which largely determines the combat capability of the Defense Forces and the effectiveness of repelling Russian armed aggression.

The process of modeling the principles of administrative and legal support for civil-military cooperation in the area of preparation for military service should take into account the mutual influence and correlation between these categories. In our opinion, taking into account the maximum subject matter and proximity to practical activities, these principles can be presented as follows.

Firstly, it is the principle of consistency of administrative and legal support, which should be understood as the absence of double interpretation of legal norms and conflicts between them. Legislation regulating military service and preparation for it includes legal

acts adopted throughout the entire period of existence of our state, respectively, their terminology, structure and focus have certain differences due to the fact that in different periods of Ukraine's formation there were different approaches to the essence of military service, its compulsory nature, etc. Differentiation of attitudes towards the preparation of civilians for military service is reflected in legal acts adopted during different cadences of the Verkhovna Rada of Ukraine or different composition of the highest bodies of state and military administration. The principle of non-contradiction should provide for the absence of conflicts of law and logical errors in the application of the provisions of various legal acts regulating preparation for military service.

The principle of efficiency of administrative and legal support of preparation for military service is the focus of legal regulation on achieving its goal with minimal use of the resources expended. Since the sphere of military-legal relations requires the use of a significant amount of state budget funds, legal regulation in it should be carried out with minimal costly means (Volovyk, 2021: 39). In addition to material resources, legal regulation has a significant impact on the use of time, human, intellectual, information, environmental and other resources, the saving of which should also be the focus of the Lawmaker's attention.

The principle of balance of private and public interests in the administrative and legal support of civil-military cooperation in the field of preparation for military service means taking into account the needs of the state, military formations, public authorities and local self-government bodies, civil society institutions, business entities, educational institutions and citizens during mobilization preparation and mobilization of persons liable for military service. The implementation of this principle remains the most difficult of all the principles of administrative and legal support in the area under study, since the interests of these subjects often differ significantly.

The principle of immanence is the conditionality of administrative and legal support for civil-military cooperation in the area of preparation for military service by its internal characteristics and inherent properties of this type of legal support. The peculiarity of implementing the principle of immanence in the administrative and legal support of preparation for military service is that each element of this support is conditioned by the features of objective reality which, in the legal form, acquire the character of legal abstraction of a legal provision expressed verbally, but at the same time do not lose the property of connection with the outside world and determinism by social relations. As noted by contemporary philosophers, considering immanence from the standpoint of functionalism, military activity as an element of culture performs several functions in the life of an ethnic group aimed at the latter's self-preservation, including communicative, regulatory and integrative. In addition to its main role of countering external aggression, military affairs helps to identify leaders who can ensure the safe functioning of society. It is the military that is characterized by self-sufficiency, balance and harmonious unity, which are subject to the general rule of functioning, formulated as follows: different paths to a common goal. Immanence, as one of the components of military leadership, is an example of the most important essential feature - stability, which provides the basis for interaction with other elements of the system of military institutions (Uvarkina, Puchkov, 2022: 233). Immanence allows building a system of administrative and legal support taking into account the basic characteristics of military service and its performance, the specifics of legal relations that arise between a person, a military formation and the state in the process of military service, the features of the cognitive, emotional and volitional, motivational sphere of a personality that should be taken into account when entering military service, etc.

The principle of unification means that the constructions used in the system of administrative and legal support of civil-military cooperation in the field of preparation for military service are consistent with the legal system of Ukraine and can be reproduced and typified externally in the form of uniform legal elements. Unification of legal support allows avoiding differences in law enforcement practice, when the same actions of a person under the same conditions lead to different legal consequences. From the point of view of NATO policy documents, unity means a higher level of standardization, i.e. the realized ability of groups or individuals, organizations or countries to use common doctrines, procedures or equipment (*Multinational capability cooperation, 2023*). Thus, the unification of administrative and legal support in the area under study allows for the creation of standard rules and algorithms for actions in specific situations, significantly saving time and efforts of right holders, which can be crucial under certain conditions, in particular, during hostilities, in the liquidation of their consequences, etc.

The principle of taking into account the unity of command and continuity of military administration in the system of administrative and legal support means the need to take into account such properties of the military administration system as hierarchy and permanence, which should be manifested in the absence of arbitrary interpretation of the organization of the leadership system, as well as in the permanence of legal regulation, which requires taking into account all possible scenarios, including the cessation of functioning of certain military administration bodies during hostilities, etc. This principle has its legal and methodological basis in the principles of unity of command and continuity of command, as defined in Annex 2 to the Strategic Defense Bulletin of Ukraine, approved by the Decree of the President of Ukraine of September 17, 2021 No. 473/2021, which, in particular, stipulates that the command of certain forces and means is carried out by a single commander (commander) who has the appropriate authority and responsibility. Military command and control bodies are able to respond to changes in the situation and constantly influence subordinate forces and means to successfully accomplish their tasks within a specified time frame. This is achieved by maintaining interaction between command and control bodies (structures), ensuring continuous communication and constant command of the situation by the commander (commander) (*Strategic Defense Bulletin of Ukraine, 2021*).

The principle of the three-component military-pedagogical goal provides for the combination of three elements in the system of preparation for military service: training, education and career development of future servicemen, which should be reflected in the system of administrative and legal support. A holistic understanding of the personality of a civilian, whose level of readiness for military service is the subject of legal regulation, requires a comprehensive approach to his/her internal attitudes, including ideological and patriotic ones, understanding their impact on the activity of acquiring knowledge, skills and abilities, as well as taking into account the need for a person to change his/her status as evidence of successful fulfillment of the requirements. In this regard, we should agree with the opinion of I. Avtushenko that the career development of servicemen is a key moment of military service. A characteristic feature of career advancement is dynamism, mobility, and the absence of stagnation. The necessary conditions for career growth traditionally include: a vacant position; necessary professional education; specialization; service experience; knowledge of legislation; necessary service in the military rank in the previous position, as well as, if necessary, passing a competition (*Avtushenko, 2018: 8-9*).

The principle of integrity means compatibility and interchangeability of administrative and legal support for preparation for military service with the legal support systems of other states, primarily the member states of the North Atlantic Alliance. Compatibility is understood

in NATO's standardization policy documents as the ability of two or more units or supplies (parts of equipment, materials) to function in the same system or environment without mutual interference. Interchangeability means the ability of two or more units or items of supply that have the same function or characteristics to be replaced without re-equipment or retraining (for units) or rework or modification (for items of supply) (*Standardization, 2022; NATO and standards, 2023*). Integrity in the context of preparation for military service in terms of administrative and legal support of this process requires taking into account the possibility of using the systems of preparation for military service of the North Atlantic Alliance states at any time when developing new legal documents and amending existing legal acts. This requires harmonizing the terminology of legal acts, establishing consistency between the stages of training and harmonizing the criteria for assessing its quality.

3. Conclusions

In conclusion, the administrative and legal support for the preparation of military service is characterized by distinct principles:

Consistency in Administrative and Legal Support: This entails avoiding double interpretations and conflicts in legal norms, as well as preventing logical errors in applying various legal acts that regulate military service preparation.

Efficiency: The focus here is on achieving the objectives of legal regulation with minimal use of resources, including material, temporal, human, intellectual, informational, environmental, and others.

Balance of Private and Public Interests: This principle involves considering the needs of the state, military formations, public authorities, local self-government bodies, civil society institutions, business entities, educational institutions, and citizens, especially during the mobilization training and mobilization of persons liable for military service.

Immanence: This refers to the conditionality of administrative and legal support by its inherent characteristics and properties, which allows for the development of a support system that takes into account the fundamental aspects of military service, the specifics of legal relationships between an individual, military formations, and the state, and the cognitive, emotional, volitional, and motivational aspects of a person's personality, particularly relevant when entering military service.

Unification: This principle ensures that the structures used in administrative and legal support are consistent with the legal system of Ukraine and can be externally typified as uniform legal elements.

Consideration of Unity of Command and Continuity in Military Administration: This principle necessitates recognizing the hierarchical and permanent nature of the military administration system, ensuring no arbitrary interpretation of the leadership organization and maintaining the continuity of legal regulation, including considering all possible scenarios like the cessation of functioning of certain military bodies during hostilities.

Three-Component Military-Pedagogical Goal: This involves combining training, education, and career development in the system of preparation for military service.

Integrative Nature: This principle emphasizes the compatibility and interchangeability of administrative and legal support with the legal support systems of other states, primarily the member states of the North Atlantic Alliance.

These principles collectively form a comprehensive framework that guides the administrative and legal support for military service preparation, ensuring effectiveness, fairness, and alignment with broader military and societal goals.

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