The Central Research Institute
of the Armed Forces of Ukraine

Military Science. Vol. 1 No. 1 (2023)

DOI: 10.62524/msj.2023.1.1.05

A methodical approach to the distribution of tasks of the Armed Forces and other military formations of Ukraine during the development of the code on the defense of Ukraine

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Abstract. The accuracy of the article is due to the need to streamline the distribution of defense tasks of Ukraine and responsibility for their implementation between the Armed Forces of Ukraine and other military formations to ensure the planning of defense measures. In this regard, the article is aimed at revealing the organization of the distribution of tasks between the Armed Forces and the other military formations, which are involved in the organization and implementation of the defense of Ukraine. Today, there is no clear mechanism for delineating responsibility for the defense of the state between the entities that organize and carry it out. Based on this, the justification of such a mechanism is an important scientific and practical task that needs to be solved. The leading approach to solving this problematic issue is to use the results of the analysis of the legal framework of the state defense to build trees of goals and objectives that determine the achievement of the goal of defense. On the basis of this tree, the main Law is determined and on its basis to propose changes in other legislative acts. This is allows to comprehensively consider ways to improve the regulatory framework in a certain problematic issue. The article presents the results of the analysis of the regulatory and legislative framework of defense, reveals their inconsistencies with the Constitution of Ukraine and the main Law, proposes and justifies measures to amend some laws and by-laws on the organization of defense of Ukraine. The materials of the article are of practical importance for specialists who are responsible for improving normative legal acts regarding the organization of defense of Ukraine.

Keywords: Defense of Ukraine, national security of Ukraine, military security of Ukraine, purpose, tasks of defense, distribution of tasks, responsibility for the implementation of tasks.

Introduction

The results of the study of the legislation in the field of defense of Ukraine indicate the presence of repetitions, contradictions and inconsistencies in the provisions regarding the distribution of defense tasks of Ukraine and responsibility for their implementation between the Armed Forces and

the other military formations. Elimination of these inconsistencies in the legislation on the defense sector is an important task today and needs to be addressed.

A situation has arisen where, contrary to the requirements of Article 17 of the Constitution of Ukraine, where the defense of Ukraine, the protection of its sovereignty, territorial integrity and inviolability are entrusted to the Armed Forces of Ukraine (AF of Ukraine), some other military formations (OMF) of the security and defense sector of Ukraine (SDS) have exactly the same tasks, which, on the one hand, complicates the organization of state defense, on the other hand, blurs responsibility for the final result of such activities. Based on this, solving such a problem in the context of resource constraints is relevant today.

The imperfection of Ukrainian legislation in the field of defense is identified in the Strategic Defense Bulletin of Ukraine (SDB) as one of the problems of the functioning of the defense forces during the implementation of defense reform (President of Ukraine, 2021). This concerns the uncertainty of the governing body responsible for the state of defense capability, the duplication of defense tasks by individual components of the OMF, the Constitution of Ukraine (Constitution of Ukraine 1996) entrusted to the Armed Forces of Ukraine. The development of the Defence Code of Ukraine (the Code) is the basis for eliminating repetitions, contradictions and inconsistencies in defence legislation.

Today, in some legislative acts (Law of Ukraine 2018), (Law of Ukraine 2020), (Law of Ukraine 1992) and other laws regulating the activities of the OMF of Ukraine, there is a coexistence of inherited outdated norms and new provisions with existing and previously adopted regulations, which are the result of long-term (2014 – 2022) amendments to the laws governing the management of the defense sector. Thus, the task of developing the Code determines the scientific and practical orientation of the article.

Methodological Framework

The aim of the article is to get acquainted with the view on the distribution of tasks of the Armed Forces of Ukraine, other military formations of Ukraine in the field of defense during the preparation of the provisions of the Defense Code of Ukraine.

Since at the present stage there is no Law of Ukraine, which is the basis for the task of distributing defense tasks, it is proposed to distribute tasks on the basis of the requirements of the Constitution of Ukraine, the Law of Ukraine "On Defense of Ukraine", the Defense Plan of Ukraine, the appointment of the Armed Forces and OMF of Ukraine (Law of Ukraine 2003), the Law of Ukraine 2014), (Law of Ukraine 1992-1), (Law of Ukraine 2015), the Joint Operational Concept, a list of typical tasks that achieve the strategic goals of the state in the settlement of interstate contradictions.

In the opinion of the authors of the article, the task of filling the draft Code with the necessary information on the distribution of state defense tasks is achieved by the consistent implementation of a number of measures shown in Fig. 1.

Fig. Figure 1 shows a possible logical sequence of determining (adjusting) the list and content of measures that would be expedient for specialists to perform to solve the problems of streamlining the requirements of the laws of Ukraine regarding the tasks of state defense.

The results of the analysis of the legislative framework for the defense of Ukraine indicate that the main reasons for the imperfection laid down by the latest amendments are non-compliance with the requirements of the Constitution of Ukraine of 1996, the Law of Ukraine On Defense of Ukraine of 2020 regarding responsibility for the state of defense capability of the state (Law of Ukraine (1991)) and the formation of new approaches to the organization of state defense based on the principles and rules of NATO member states. In the first and second cases, many components of the OMF of Ukraine became responsible for defense, protection of sovereignty, territorial integrity and

inviolability of the state, in the third case, the transition to NATO principles and standards led to the development of new approaches to the organization of defense of Ukraine.

This state of affairs requires a clear definition of the meaning and content of the terms "defense of Ukraine", "management of the defense sector", to clarify the responsibility for the defense of Ukraine: its organization, implementation and provision of the necessary (defense) resources.
Without taking into account the results of coordination and consolidation of the content of the definitions of these basic provisions, the work will be incomplete, which will require another revision in the future.

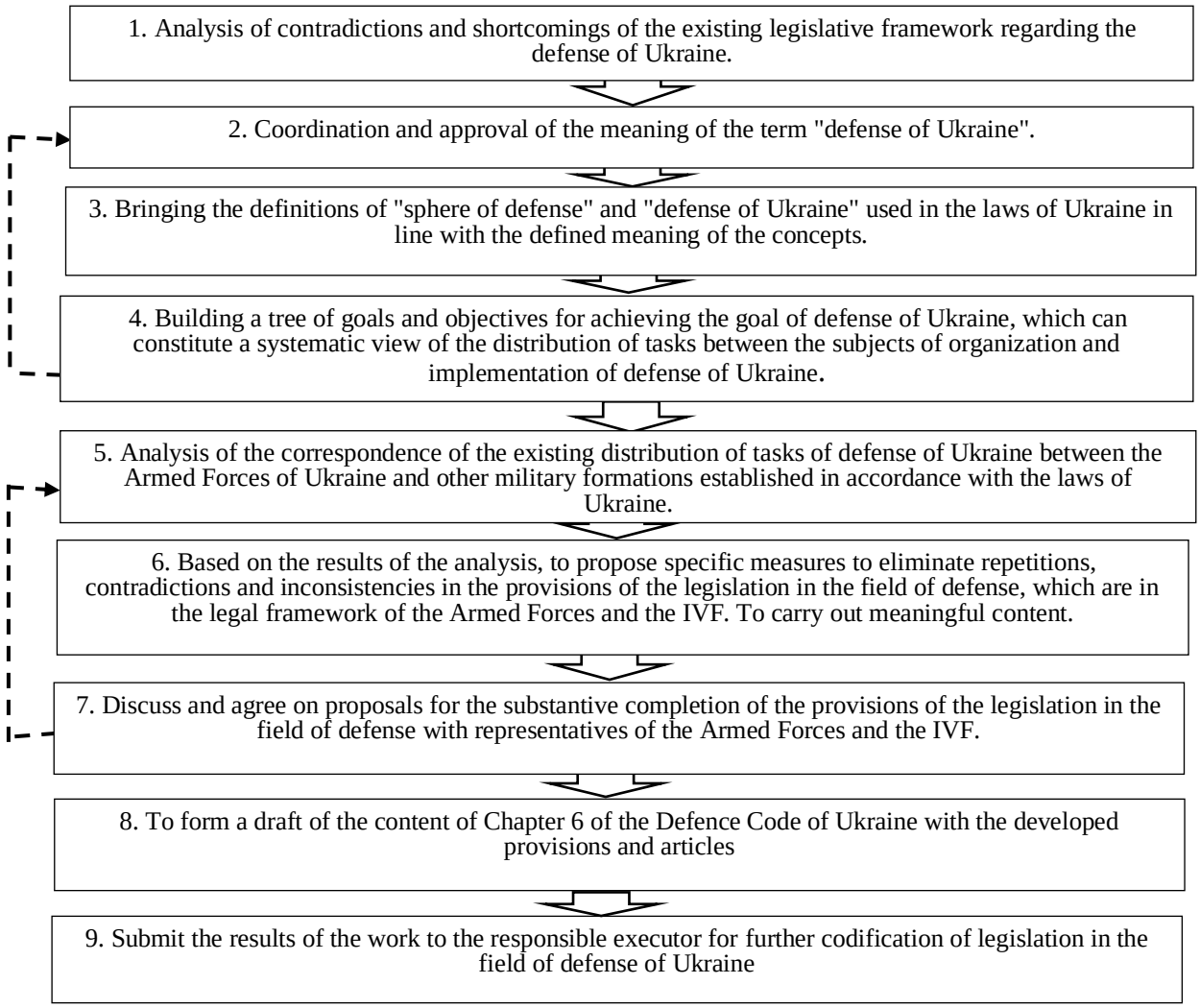


Figure 1. Schematic representation of the sequence of solving problems to eliminate repetitions, contradictions and inconsistencies in the provisions of legislation in the field of defense

Since the purpose of the work is achieved through the consistent implementation of interdependent measures, it is expedient to focus the content of the draft Code in the part related to the distribution of state defense tasks on a deeper analysis of the shortcomings and contradictions of the legislative framework of defense of Ukraine.

The content of the draft Code should be based on the results of work on the implementation of the idea (plan) of the implementation of new approaches to the organization of defense of Ukraine, definitions of their content should be proposed, especially with regard to the consistency of definitions of such concepts as "defense capability of the state", "defense sphere", clarification of "defense

planning", etc. These concepts require a revision of a significant number of concepts that are derived from and depend on them (Fig. 2).

Fig. Figure 2 shows the content and sequence of the task related to the content of the draft Code regarding the distribution of tasks, powers and responsibilities for the defense of Ukraine. For further work, it is advisable:

to build a tree of goals and objectives for achieving the goal of defense of Ukraine according to the requirements of a new approach, which can constitute a systematic view of the distribution of tasks between the subjects of organization and implementation of defense of Ukraine;

to bring the definitions of "defense sector" and "defense of Ukraine" used in the laws of Ukraine in line with the defined meaning of the proposed concepts, in accordance with the requirements of new approaches;

analysis of the correspondence of the existing distribution of tasks of defense of Ukraine between the Armed Forces of Ukraine and other military formations established in accordance with the laws of Ukraine;

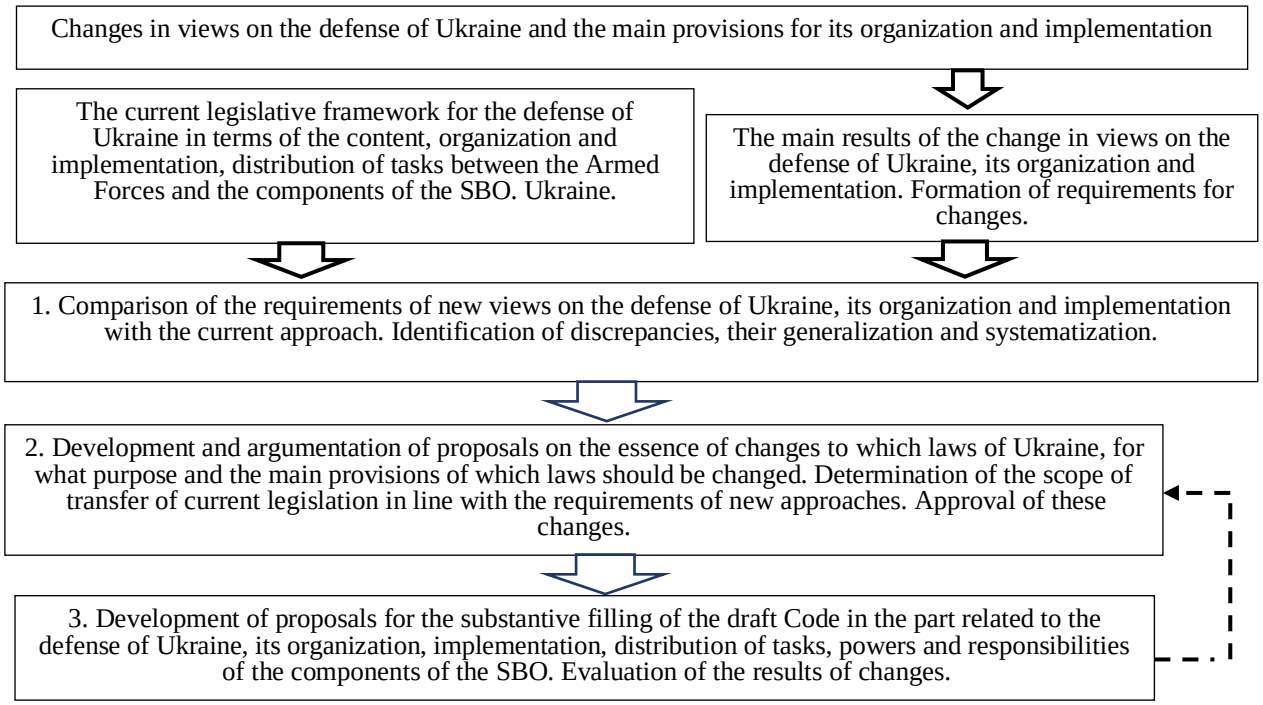


Figure 2. Schematic representation of the sequence and content of the solution of measures to eliminate repetitions, contradictions and inconsistencies in the provisions of the legislation in the field of defense

discuss and agree on proposals for the substantive completion of the provisions of the legislation in the field of defense with representatives of the Armed Forces and the OMF;

to formulate a draft of the substantive content of the Defence Code of Ukraine regarding the distribution of defence tasks with the developed provisions and articles.

Feedback during discussion and coordination involves scientific and professional discussions on the proposed measures, since in accordance with the tasks set, each chapter is developed separately, without agreeing on the main provisions and analyzing what and who is not satisfied with the current legislation in the field of defense (except for what is provided in the methodological recommendations).

The determination of specific laws of Ukraine depends on the consideration of agreed and approved changes in views on the defense of Ukraine, its organization and implementation during the development and argumentation of proposals. The difference between the proposals for amendments to the basic provisions on the defense of Ukraine and the existing provisions determines the scope of improvement of the legislative framework, the transfer of current legislation in line with the requirements of new approaches.

The issue of using the basic Law of Ukraine, the requirements of which should be taken as a basis for the formation of the Code, turned out to be not an easy one: the Law of Ukraine "On Defense of Ukraine" (Law of Ukraine 2020) or the Law of Ukraine "On National Security of Ukraine" (Law of Ukraine 2018). The first Law of Ukraine is more in line with the requirements of the Constitution of Ukraine, the second is of a later year of development, which includes many differences from the first, but more at the same time, the SDS contains a matrix for the distribution of tasks according to scenarios for the use of components of the security and defense sector in crisis management. The situation shows that, first of all, changes should be made in the basic Law of Ukraine "On Defense of Ukraine". The current approach to the organization of defense is shown in Fig. 3.

The figure shows the enshrined provision that the defense of the state is considered in peacetime and in the event of armed aggression or armed conflict. But defense capability is considered only in the event of armed aggression or armed conflict. At the same time, it is well known that the defense capability of a state is a category not only in wartime, but more in peacetime, since the conditions for the ability to defend are formed mainly in peacetime (Law of Ukraine 2020).

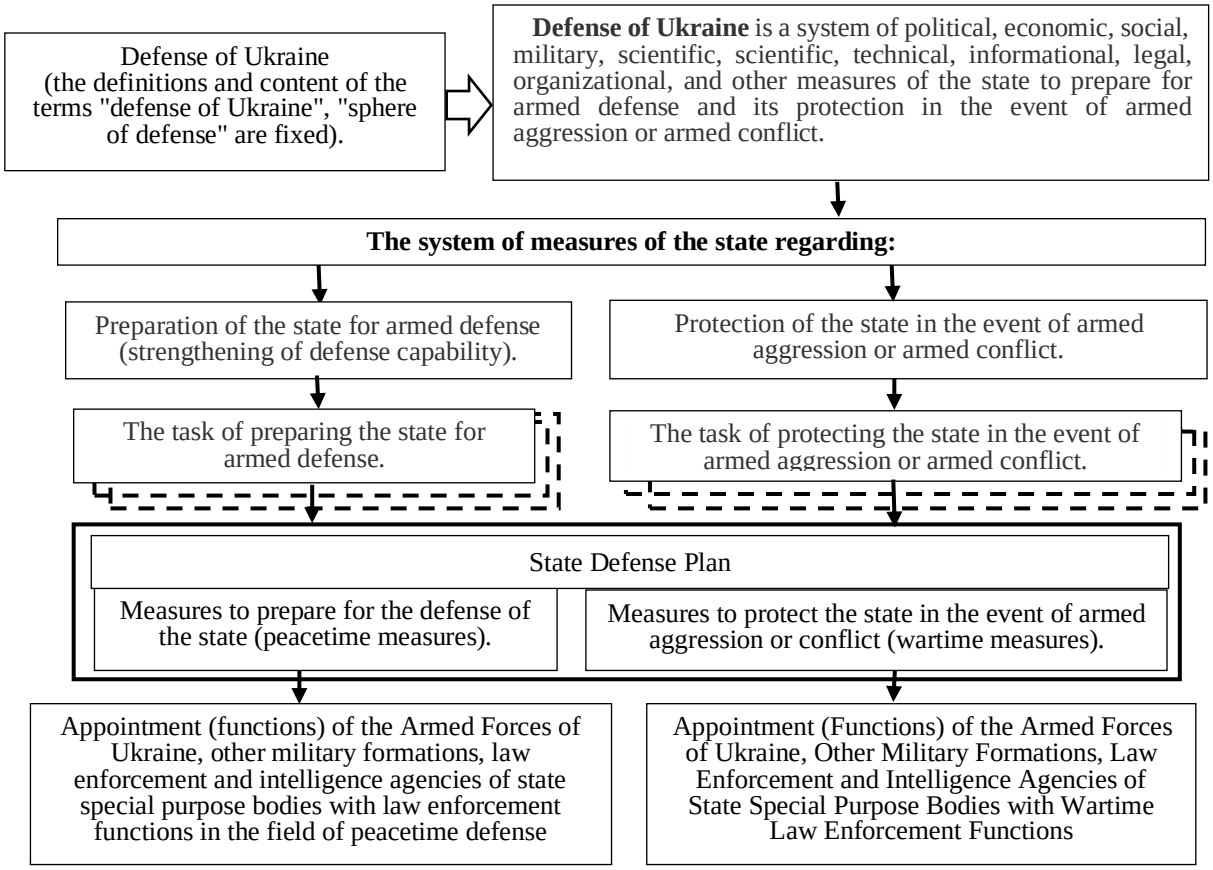


Figure 3. Schematic representation of the dependence of peacetime and wartime tasks on the main provisions of the organization and implementation of defense of the current legislative framework

Non-compliance with the requirements of the laws of Ukraine (Law of Ukraine 2020), (Law of Ukraine 2011), (Law of Ukraine 2011-1) over the past 12 years has not yielded results regarding the readiness of the State for armed defense. For these reasons, among the system of measures to prepare for the armed defense of the state in peacetime and in the event of armed aggression or armed conflict, the issues of identifying, constructing and maintaining Ukraine's defense capability is not fully envisaged. The powers of the Cabinet of Ministers of Ukraine are defined by the law (Law of Ukraine 2020) in this matter in fragments, which only partially affect the content of defense capability, or do not at all interpret the attitude to the organization of the production of weapons and military equipment (establishes the sale and disposal of weapons, military equipment, other property of the Armed Forces of Ukraine and other military formations and law enforcement agencies, as well as the disposal of scrap metal generated in them).

It should be borne in mind that a serious impetus for making changes in the foundations of the organization and implementation of Ukraine's defense is the experience gained by Ukraine in the course of the anti-terrorist operation and repelling the full-scale aggression of the Russian Federation against Ukraine. This primarily concerns the establishment of the limits of powers and responsibilities of the components of the OMF regarding the organization and implementation of the defense of Ukraine, the implementation and responsibility for the appointment and role of the Cabinet of Ministers of Ukraine in meeting the needs of defense.

Such a provision practically excludes the most important part of the activities of the Cabinet of Ministers of Ukraine, which is defined by the Law of Ukraine "On the Cabinet of Ministers of Ukraine" - the management of issues related to the creation and maintenance of the necessary level of defense capability of the state (Law of Ukraine 2011).

The relationship between the definition of the content of Ukraine's defense and the tasks of the subjects should ensure the achievement of the defense goal through advance training in peacetime, and the implementation of the results of training in wartime (in the event of armed aggression or armed conflict).

The emergence of the concepts of "special period", "legal regime of martial law", "state of emergency", "crisis situation of a military nature" in other laws of Ukraine affect the definition of the main provisions of Ukraine's defense, the definition of peacetime and wartime defense tasks, taking into account new approaches.

Results and Discussions

In order to distribute tasks between the Armed Forces of Ukraine and other military formations, law enforcement and intelligence agencies, state special purpose bodies with law enforcement functions in the field of defense, it is necessary to have appropriate documents that would allow to:

- to determine the share of participation of military formations, law enforcement and intelligence agencies of state special purpose bodies with law enforcement functions in the field of defense in solving the tasks of defense of Ukraine in peacetime and wartime;
- On the basis of the share of participation, to determine the tasks of peacetime and wartime, which are solved by military formations, law enforcement and intelligence agencies of state special purpose bodies with law enforcement functions in the field of defense.

It should be borne in mind that the laws of Ukraine contain, as a rule, principles and mechanisms for the formation of tasks that do not change often, and strategic goals, defense priorities are variable and are derived from the general goals of Ukraine's development and the military-political situation. The list of typical tasks also refers to permanent tasks, is the basis for the formation of the Joint Operational Concept (JOC), which is determined for the appropriate planning period to achieve strategic goals in the security and operational environment.

The above-mentioned indicates that the current legislation does not fully ensure the rational distribution of state defense tasks between the Armed Forces and the OMF in the course of forming

the content of the draft Code. This is also complicated by Ukraine's transition to the principles and rules used by NATO member states.

The laws of Ukraine, which are the content of the Code of Laws on Defense of Ukraine, in our opinion, should determine the purpose of state defense management bodies, the Armed Forces and the OMF, determine their powers and responsibilities, be a mechanism for forming a tool for performing the tasks of preparing and implementing the defense of Ukraine in peacetime, threatening period, wartime and post-war period.

At the same time, it is expedient to determine the specific tasks of the defense of the Armed Forces and the OMF of Ukraine for the selected planning period, which are derived from the requirements of the Joint Operational Concept to achieve the strategic goals of the state in the security and operational environment, defense priorities of the state, the Defense Plan of Ukraine (Fig. 4).

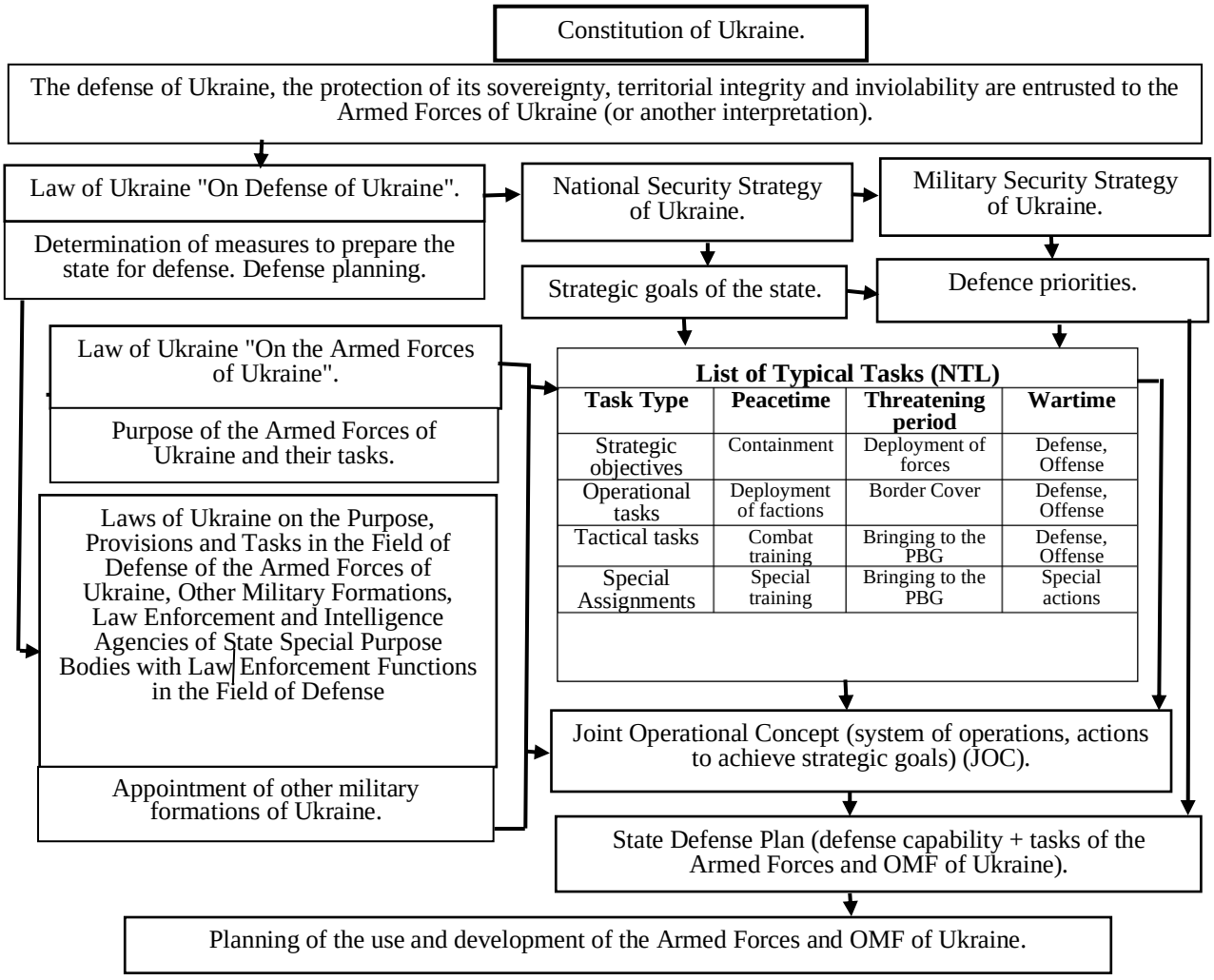


Figure 4. Schematic representation of further detailing of defense tasks in the laws of Ukraine in the process of defense planning

The figure shows that the tasks of defense in the laws of Ukraine are detailed in the process of defense planning and planning of the strategic use of the Armed Forces and OMF in:

strategic goals of the state;

defence priorities;

the Joint Operational Concept;

list of typical tasks (national list of tasks).

The main idea of the Defense Code, in our opinion, should be based on the discussed and approved plan for the defense of Ukraine under various possible scenarios for the development of the military-political and military-strategic situation.

Conclusions

The article shows the authors' view on the preparation of provisions of the Defence Code of Ukraine on the distribution of tasks of the Armed Forces and the OMF in the field of defence. It is based on the discussed and approved plan for the defense of Ukraine under various possible scenarios for the development of the military-political and military-strategic situation.

The Code of Laws on Defense of Ukraine can determine the purpose of state defense management bodies, the Armed Forces and the OMF of Ukraine, determine their powers and responsibilities, be a mechanism for the formation of a tool for performing the tasks of training and implementation of the defense of Ukraine in peacetime, threatening period, in wartime and in the post-war period.

It is proposed to determine the specific tasks of the defense of the Armed Forces and the OMF of Ukraine for the selected planning period, which are derived from the requirements of the JOC to achieve the strategic goals of the state in the security and operational environment, defense priorities of the state, the Defense Plan of Ukraine.

Recommendations

In the future, it is expedient to focus on determining the content of the components of the state's defense capability, defining the tasks of its formation and maintenance at a certain level, consolidating the tool for distributing defense tasks between the state defense management bodies, especially with regard to the coordination of the powers of the National Guard of Ukraine (Law of Ukraine 2014) and the Territorial Defense Forces, the Armed Forces (Law of Ukraine 1991) and the OMF, their powers and responsibilities.

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