The organizational and legal status of Civil-Military Administrations in Ukraine

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The conduct of an anti-terrorist operation in the East of Ukraine generates a new political reality for Ukraine. The state-administrative apparatus and, in general, the entire system of state administration, especially territorial development, first encountered a problem that had no analogues in the history of independent Ukraine. Uncovered aggression against the state, the actual state of military operations, socio-economic and political problems associated with the geopolitical confrontation - all this conditioned the new reality of the existence of the state for a long period, regardless of the time of the end of direct combat operations. The latter, in turn, necessitates minimizing the negative consequences that took place during open military operations and under the condition of a constant terrorist threat, the high level of which remains almost throughout Ukraine, but most of all in the South-Eastern region. The state must take responsibility and guarantees for creating the appropriate conditions for the development of the territories and overcoming the crisis that was caused by the aggression. But since modern political power did not have historical examples of coexistence of independent government bodies, the mechanisms of territory management in the conditions of war were formed in real-time conditions. This necessitates proper theoretical and methodological support for the coexistence of state-level government bodies, local self-government bodies, as well as bodies of Civil-Military Administrations (hereinafter - CMA). CMA are public authorities whose administrative and legal status is complex organizational construction. Its uniqueness lies in the fact that one government body combines administrative and law enforcement functions. Proceeding from this, for the full and comprehensive disclosure of its content, it is expedient to single out the main features of the state authority as a subject of management and, on this basis, to disclose the content and peculiarities of the administrative and legal status of CMA. For this purpose, it is necessary to turn to the provisions developed by the legal science. Thus, Article 1 of the Law of Ukraine "On Civil-Military Administration" defines CMA as "temporary state bodies in villages, towns, cities and regions operating in the Antiterrorist Center under the Security Service of Ukraine and are designed to ensure the operation of the Constitution and laws of Ukraine, ensuring security and normalizing the vital activity of the population, law and

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order, participating in countering sabotage and terrorist acts, preventing humanitarian catastrophe in the area of the antiterrorist operation." Based on the content of the commented legislative act, it can be concluded that military civil administrations are divided into two categories, one of which provides for the functioning of the CMA of settlements that are temporary state bodies exercising the powers of rural, township, city councils in the respective territory councils, executive bodies of rural, settlement, city, district councils and chairmen in the cities, and the other - CMA of regions as temporary public bodies exercising authority in the territory of the district, regional councils, government administrations and the like. The analysis of normative legal acts makes it possible to distinguish the following features of the organizational and legal status of civil-military administrations.

1. The specific nature of the powers of CMA makes it possible to carry out their conditional division into two categories: a) general, that is, those inherent in the activities of local government bodies and bodies of local self-government (for example, the preparation and approval of programs for the socio-economic and cultural development of the relevant administrative-territorial units, and other issues of local self-government, ensuring a balanced economic and social development of the respective territory, effective use of natural, labor and financial resources, etc.) and b) special, inherent in the activities of law enforcement agencies in the area of public order and security (for example, establishment of protection of important objects of the national economy of Ukraine, ensuring the vital activity of the population, assistance to the State Border Service of Ukraine in maintaining the corresponding regime in the state on the border, etc.). That is, we can draw a conclusion about the dualistic nature of the competence of CMA. This conclusion is also confirmed by the order of staffing the vacant posts of the CMA: if in the district and regional CMA the positions of civil servants can be replaced by representatives of paramilitary groups and law enforcement agencies (Part 5 of Article 3 of the Law of Ukraine "On Civil-Military Administrations"), CMA of settlements are formed exclusively from servicemen of military formations, formed in accordance with the laws of Ukraine, soldiers of the law enforcement bodies that are sent to them in accordance with the procedure established by law to perform tasks in the interests of the defense of the state and its security with leaving in military service, service in law enforcement bodies without exception from lists of personnel, as well as employees who concluded with the antiterrorist center under the Service Security of Ukraine labor contract (part 4 of Article 3 of the Law of Ukraine "On Civil-Military Administrations ").

2. Legislative consolidation differentiation of management functions depending on the category of authority (general or special). If the heads of the relevant regional CMA carry out general management of CMA of settlements and district military civil administrations, and if the relevant regional civil-military administrations are not educated - the head of the Anti-Terrorist Center under the Security Service of Ukraine, then the management of the regional civil-military administrations in the field of public order and security conducts an action Chief of the Anti-Terrorism Center under the
Security Service of Ukraine (Part 9 of Article 3 of the Law of Ukraine "On Civil-Military Administrations"). For a more correct definition of the legal status of the CMA, it is advisable to amend some legislative acts on improving the organizational and legal support for the activities of CMA. In particular, it is proposed: a) to supplement paragraph 1 of Article 106 of the Constitution of Ukraine with paragraph 28-1 of the following content: “To form temporary state bodies for the performance of the powers of local executive bodies and local self-government bodies”; b) The Law of Ukraine "On Civil-Military Administrations" needs to expand the conceptual apparatus, therefore we propose to supplement Part 1 of Article 1 of this Law with the following definitions: the head of the CMA of the region, the region's regional administration head, who acquires the corresponding status in the event of a decision by the President of Ukraine on the formation of regional, regional CMA; the head of the CMA of the settlement (settlements) is an official of the CMA appointed to the post by the head of the relevant regional CMA in agreement with the head of the Anti-Terrorist Center under the Security Service of Ukraine, and in the event that the relevant regional CMA does not was formed by the head of the Antiterrorist Center under the Security Service of Ukraine; self-elimination from the fulfillment of the powers of the village, settlement, city council, their executive bodies - the actual failure to fulfill the powers of the village, settlement, city council, their executive bodies entrusted to them by the Constitution and laws of Ukraine; the actual self-dissolution of the village, township, city council, their executive bodies is a voluntary joint decision adopted by the relevant village, township, city council and formalized in accordance with the procedure established by law.

Thus, the administrative and legal status of CMA is a normatively regulated procedure for the formation and functioning of state bodies, the consolidation of the main areas of their activities and interaction with other state authorities, law enforcement agencies and military formations to ensure public order and security, and the totality clearly defined rights and duties of CMA, the main task of which is to security and normalization of the vital activity of the population in the area where the antiterrorist operation is conducted.
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