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STEP AT NATO MEETING

Abstract. The article notes that the Russian occupation of the Crimea, the de-stabilization of eastern Ukraine and the provocations that Russia arranges in the airspace of the EU member states, undermined the security system established after the Cold War. There is a threat of military attack and occupation of Europe. At the same time, armed smugglers are transporting a large number of illegal migrants across the Mediterranean Sea and jihadists are constantly committing new terrorist attacks. It is proved that in Europe only the Ukrainian army has experience in conducting military operations with Russian troops, so it may be useful for a new defense association. Therefore, the political and military leadership of the country would benefit from proposing a military partnership for defense cooperation with EU member states to the Permanent Structured Cooperation on Security and Defense (PESCO), as Georgia has already done.

It has been characterized that, unlike the previous framework law, which was mainly declarative and consisted of only 12 articles, the adopted Law “On National Security of Ukraine” provides for a more precise regulation of the actions of the Ukrainian state to counter external and internal aggression. Determined exhaustive list and competence of state authorities and military formations responsible for this. These bodies form the security and defense sector.

In addition, the law was conceived as a framework, therefore, to realize the full potential of the law, work on other bills is required that will clarify and develop the ideas of the law on national security. To do this, you must adopt or amend the six laws. This is a new law on the SBU, the law on the creation of a committee of the Verkhovna Rada to control the SBU and intelligence agencies, the law on intelligence activities, the law on transparency of procurement in the field of security and defense, and amendments to the law on state secrets.

Keywords: national security, state administration, President of Ukraine, Security Service of Ukraine, Permanent structured cooperation on security and defense issues.

КРОК НАЗУСТРІЧ НАТО

Анотація. Зазначено, що російська окупація Криму, дестабілізація східної України і провокації, які Росія влаштовує в повітряному просторі країн – учасниць ЄС, підірвали систему безпеки, встановлену після Холодної війни. Існує загроза військової атаки і окупації території Європи. Водночас озброєні контрабандисти переправляють велику кількість нелегальних мігрантів через Середземне море і джихадисти постійно здійснюють нові теракти. Доведено, що в Європі лише українська армія має досвід ведення бойових дій з російськими військами, тому вона може бути корисною для нового оборонного об'єднання. Тож політичне та військове керівництво країни отримало б користь запропонувавши Постійному структурованому співробітництву з питань безпеки та оборони (PESCO) військово партнерство для співпраці у сфері оборони з країнами – членами ЄС, як це вже зробила Грузія.

Схарактеризовано, що на відміну від попереднього рамкового закону, який носив переважно декларативний характер і складався лише з 12 статей, ухвалений Закон України “Про національну безпеку України” забезпечує більш чітке регулювання дій Української держави з протидії зовнішній і внутрішній агресії. Визначено вичерпний перелік та компетенцію державних органів та військових формувань, які за це відповідальні. Ці органи формують сектор безпеки і оборони.

Крім того, закон замислювався як рамковий, тому для реалізації всього потенціалу закону потрібна робота над іншими законопроектами, які будуть уточнювати і розвивати ідеї закону про нацбезпеку. Для цього необхідно прийняти або внести зміни в шість законів. Йдеться про нові закони: про СБУ; про створення комітету ВРУ для контролю над СБУ і органами розвідки; про розвідувальну діяльність; про прозорість закупівель в сфері безпеки і оборони; і внесення змін до закону про державну таємницю.

Ключові слова: національна безпека, державне управління, Президент України, Служба Безпеки України, Постійне структуроване співробітництво з питань безпеки та оборони.

ШАГ НАВСТРЕЧУ НАТО

Аннотация. Отмечено, что российская оккупация Крыма, дестабилизация восточной Украины и провокации, которые Россия устраивает в воздушном пространстве стран – участниц ЕС, взорвали систему безопасности, установленную после Холодной войны. Существует угроза военной атаки и оккупации территории Европы. В то же время вооруженные контрабандисты переправляют большое количество нелегальных мигрантов через Средиземное море и джихадисты постоянно совершают новые теракты. Доказано, что в Европе только украинская армия имеет опыт ведения боевых действий с российскими войсками, поэтому она может быть полезной для нового оборонного объединения. Поэтому политическое и военное руководство страны получило бы пользу предложив Постоянному структурированному сотрудничеству по вопросам безопасности и обороны (PESCO) военное партнерство для сотрудничества в сфере обороны со странами – членами ЕС, как это уже сделала Грузия.

Охарактеризованы, что в отличие от предыдущего рамочного закона, который носил преимущественно декларативный характер и состоял всего из 12 статей, принят Закон Украины “О национальной безопасности Украины” обеспечивает более четкое регулирование действий Украинского государства по противодействию внешней и внутренней агрессии. Определен исчерпывающий перечень и компетенцию государственных органов и воинских формирований, которые за это ответственны. Эти органы формируют сектор безопасности и обороны.

Кроме того, закон задумывался как рамочный, поэтому для реализации всего потенциала закона нужна работа над другими законопроектами, которые будут уточнять и развивать идеи закона о нацбезопасности. Для этого необходимо принять или внести изменения в шесть законов. Речь идет о новых законах: о СБУ; о создании комитета ВРУ для контроля над СБУ и органами разведки; о разведывательной деятельности; о прозрачности закупок в сфере безопасности и обороны; и внесение изменений в закон о государственной тайне.

Ключевые слова: национальная безопасность, государственное управление, Президент Украины, Служба безопасности Украины, Постоянное структурированное сотрудничество по вопросам безопасности и обороны.

Thesis statement. The war in eastern Ukraine and the occupation of part of its territory, which began in 2014, led the state authorities to reform the defence sector. Without an updated legislative framework, it is impossible.

It is quite logical and natural that the law on national security, written during a real war and with the help of foreign advisers, will be different from the laws on the same security and defence of the country in the early 2000s (although the old ones were simply rewritten from the previous laws of 90s).

On April 5, 2018, the Verkhovna Rada adopted in the first reading the presidential bill № 8068 “On National Security of Ukraine”. On June 19, the Committee of the Verkhovna Rada of Ukraine on National Security and Defence recommended the parliament to adopt the bill as a whole. A total of 427 amendments were submitted to the bill, 311 of which the committee rejected.

On June 21, the Verkhovna Rada adopted the Law “On National Security of Ukraine” (№ 8068), 248 deputies voted for this decision. The law defines the principles of state policy in the areas of national security and defence. Among the fundamental national interests of Ukraine are the following: Ukraine’s integration into the European political, economic, security legal space; acquiring membership in the European Union and in the North Atlantic Treaty Organization; the development of equal, mutually beneficial relations with other states. According to its creators, the document introduces novelties that bring Ukraine closer to NATO standards.

During a speech on the occasion of the Constitution Day (June 28, 2018), the President of Ukraine P. Poroshenko said that in the near future he would initiate amendments to the Ukrainian Constitution, which should consolidate Ukraine’s aspirations for membership in the EU and NATO. According to the

president, “European and Euro-Atlantic integration clearly correspond to the national interests of Ukraine”, and they are supported by the majority of Ukrainian citizens [1].

Analysis of recent research. In recent periodical and scientific literature, a large number of publications appeared on Ukraine’s accession to NATO. We have previously provided a thorough analysis of the history of Ukraine-NATO relations and the reform of the Armed Forces of Ukraine in accordance with NATO standards [2, 3]. In the periodicals, the interesting results of the population survey concerning the accession to NATO are presented [4]. But until now there is no professional analysis of the new law “On National Security of Ukraine” on the restructuring of the Ukrainian army and novelties that bring Ukraine closer to NATO standards.

The objective of the study is to give a brief description of the new Permanent Structured Cooperation (PESCO) program in the field of defence of the EU member states and the possibilities of Ukraine’s military partnership for defence cooperation with the EU member states; to characterize the competitiveness of the Ukrainian Armed Forces in Europe and in the world; to give a brief analysis of the new law “On National Security of Ukraine” which opens new opportunities for closer cooperation with NATO.

Results. Bloody conflicts on the border with the EU made the security problem a weakness in the European integration project. According to experts, the reason for such a situation is the reduction of EU spending on the army. In addition, there is no unity and trust

between the participating countries, they assess the risks differently. All this creates obstacles in building a single security strategy.

Therefore, the EU decided to take resolute, specific steps and improve the military cooperation apparatus by establishing by 2025 a full-fledged defence alliance that will exist in parallel with NATO. Of course, one of the reasons for the creation of the EU defence initiative was the unpredictable security policy of the new US president, the fear that the United States would abandon its commitments to NATO, and the desire for greater EU autonomy in European security matters.

In early December 2017, the EU Council decided to launch the Permanent Structured Cooperation program (PESCO) – permanent structured cooperation of the EU member states in the Defence Field. The program will allow jointly to withstand military threats from Russia and to strengthen the defence capability of the European Union. In general, 25 of the 28 EU members joined the new defence alliance.

Today, PESCO employs 17 projects on military training and combat capabilities development, crisis response, troop-contributing, maritime security and response to cyber-threats. The official list of cooperation types, which includes 50 security and defence projects. In addition, the member states of the new EU defence initiative undertook a number of commitments, one of which is an increase in defence budgets. US President Donald Trump also insisted that NATO nations increase their defence spending to 2 % of GDP. Over the past four years, the armed forces of

Ukraine have not only reborn, but have become one of the most effective armies in Europe [5].

The rating of Global Firepower has published the latest results of its research, according to which in 2018 the military forces of Ukraine took 29th place among the strongest armies of the world, rising one position in comparison with the last year. The GFP rating is considered one of the most famous in the world. It is comprised of specialists from the oldest British St. Andrew University (St. Andrews University), founded in the early 1410s in Scotland to study information on the armed forces of different countries.

This year, experts analysed the armies of 136 states, using for this more than 50 factors reflecting the development of economy, industry, the availability of labour force, natural resources, diversity of armed forces. Nuclear-weapon states or NATO members received bonus scores.

In the past few years, the United States, Russia and China made the top three leaders. India is ranked fourth. With regard to Ukraine, our neighbours in the rating are the Czech Republic (30th) and Greece (28th). According to GFP, 182,000 people are serving in the Ukrainian army (the Defence Ministry announced about 250,000), and the Ukrainian defence budget was almost 4,9 USD. However, as you know, the defence budget of Ukraine includes expenditures on the maintenance of all security forces, and not just the armed forces.

In previous years, Ukraine has taken higher positions in GFP. For example, in 2014 we were in the 21st place, and in 2015 – in the 25th place. The reason for

this was the sharp decrease in the number of tanks and aircraft. So in 2014, according to GFP, we had 4112 tanks and 400 military aircraft, and in 2015 – already 2809 and 222 respectively. Such a decrease can be explained by active military actions in the Donbass. However, higher positions in comparison with 2018 do not mean that the Ukrainian army was better four years ago.

But with the help of such ratings it is impossible to objectively assess the true capabilities of the military forces. The true assessment can only be a combat experience. And in this respect, the AFU is the only European army that has experience of confrontation with one of the strongest armies in the world [6].

According to the authoritative “Rating of Military Power” according to the version of Global Firepower, today the armed forces of Ukraine are the 8th largest army in Europe. The first place in the ranking of the strongest armies of Europe is still held by France, the army of the United Kingdom occupies the second position.

The index is determined on the basis of 55 factors, including quantitative and qualitative indicators of the personal component and army, level of financing, military reserve, population, logistics, geographical position of the country and even the availability of natural resources. However, the main criterion for this authoritative rating is the human factor. Thus, according to Global Firepower, today 44 million people live in Ukraine [7].

By Decree № 21 of February 2, 2018, the President of Ukraine Petro Poroshenko approved the decision of the National Security and Defence

Council of January 17, 2017 on the introduction of the Law “On National Security of Ukraine” to the Verkhovna Rada [8]. The bill was developed in close cooperation with experts from NATO, the United States and the European Union in order to harmonize the Ukrainian legislative framework with the standards of the North Atlantic Alliance. The bill sets itself the task of Ukraine’s membership in both the European Union and the North Atlantic Treaty, which should be an unconditional guarantee of the security, sovereignty and territorial integrity of the state. A few days before the adoption of the law, June 15, 2018, the advisers of the International Advisory Group of NATO countries met with representatives of the Verkhovna Rada of Ukraine. At this meeting, the Western partners pointed to amendments that need to be put into the bill by June 22. Among these key requirements are the transparency of financing of the defence sector, the division of powers between the Chief of the General Staff and the Commander-in-Chief of the Armed Forces of Ukraine (AFU). All these key requirements were supported by voting in the Verkhovna Rada. On June 21, the Verkhovna Rada adopted the Law “On National Security of Ukraine” (№ 8068) [9].

Unlike the previous framework law, which was mainly declarative and consisted of only 12 articles, the adopted Law “On National Security of Ukraine” provides for a more precise regulation of the actions of the Ukrainian State to counter external and internal aggression. An exhaustive list and competence of state authorities and military formations responsible for this are de-

terminated. These bodies form the security and defence sector.

The law contains five sections. Section I defines the terms used in the Law.

Section II establishes legal principles of state policy in the field of national security and defence, fundamental national interests of Ukraine, including ensuring state sovereignty and territorial integrity, integration of Ukraine into the European political, economic, legal space, membership in the European Union and in the North Atlantic Treaty Organization.

The threats to the national security of Ukraine and the relevant priorities of the state policy in the fields of national security and defence are defined in the National Security Strategy of Ukraine, the Strategy of military security of Ukraine, the Strategy of cybersecurity of Ukraine, other documents on national security and defence, which are approved by the National Security and Defence Council of Ukraine and are approved by Decrees of the President of Ukraine.

Section III defines the principles and mechanisms of civil democratic control, powers to exercise such control of legislative, executive and judicial power, local self-government bodies and civil society.

Section IV defines the composition of the security and defence sector and the legal status of the main bodies that are part of it, as well as management and coordination in the field of national security.

According to the Law, the security and defence sector of Ukraine consists of four interconnected components: security forces; defence forces; defence industrial complex; citizens and public as-

sociations that voluntarily participate in ensuring national security. Functions and powers of the components of the security and defence sector are determined by the legislation of Ukraine.

Section V regulates planning in the field of national security and defence, defines the basic documents of long-term planning, in particular the National Security Strategy of Ukraine, the Strategy of Military Security of Ukraine, the Strategy of Public Safety and Civil Protection of Ukraine, the Strategy of Development of the Defence Industry of Ukraine, the Strategy of Cybersecurity of Ukraine, the National Intelligence Program, as well as the procedure for their formation and implementation in the documents of the medium and short-term planning.

The rules of law, prepared in close cooperation with experts from NATO and the EU, determine not only the rights but also the specific responsibilities of the highest state bodies in the field of national security management. In particular, the terms and procedure for the preparation of strategic documents, according to which the army, the police and special services should develop, shall be established. There are clear requirements for their content. The public will be able to control how the declared intentions of the authorities have been implemented.

The new law stipulates that the expenditures for financing the security and defence sector of Ukraine should amount to at least 5 percent of GDP, with at least 3 percent to finance the defence forces.

The new law provides for the transfer of great power into the hands of the

president in a martial law. Also, the law sets out a new system for ensuring the national security and authority of each of its subjects. As the law says, the division of the security forces and defence forces in Ukraine for the first time is introduced. Security forces are mainly law enforcement agencies, as well as intelligence, whose purpose is to protect the national security of Ukraine. This is the Ministry of Internal Affairs and the SSU. Defence forces are the Armed Forces of Ukraine, the main task of which is the defence of the state from external threats (Article 1).

The leadership in the field of national security is carried out by the president, who is the supreme commander-in-chief. He submits to the Verkhovna Rada a statement on the declaration of war and decides on the use of armed forces in the event of military aggression against Ukraine.

In addition, the President announces the full or partial mobilization, agrees upon a decision on the introduction of a martial law in Ukraine or in some of its areas in the event of a threat of attack, a danger to state independence. In particular, it clarifies the powers of the President regarding the strategic control of the National Guards through the General Staff of the AFU during the martial law.

Given the ongoing hostilities in eastern Ukraine and the threat of expanding aggression of Russia, it is difficult to overestimate the importance of introducing NATO standards into the military command structure. The rules of the law replace inherited from the USSR overly centralized command line, which did not allow local com-

manders to respond in a timely manner to changes in the situation, changing it to the NATO model.

In accordance with the law, the concept of a civilian defence minister is introduced for the first time in Ukraine (Article 15). His duty is the military-political and administrative leadership of the Armed Forces of Ukraine. Civilians should also be deputy defence ministers. Thus, the leaders of the ministry will be responsible only for resource management, military personnel policy and comprehensive meeting the needs of the Armed Forces.

In this case, the military leadership of the Pan-Ukrainian Armed Forces is the duty of the Commander-in-Chief (Article 16), which is appointed by the President of Ukraine at the request of the Minister of Defence. The Commander-in-Chief leads the troops through the Staff, commander of which subordinates him.

Before that, all the responsibilities for the preparation of the Ukrainian Armed Forces and their application were combined with one person - it was the Chief of the General Staff (hereinafter — GS). Today, General of Ukraine Viktor Muzhenko, the General Staff and the command of the branches of the troops are responsible for preparing units of the Armed Forces, as well as for planning and conducting military operations.

The new law on national security should facilitate the duties of the Chief of the General Staff. It stipulates that the chief of the GS and the commanders of the branches of the forces will be responsible only for the preparation of the units of the Armed Forces on the basis of the resources and personnel for

which the Ministry of Defence is responsible.

The commander-in-chief, to whom Joint Force Commander and Chief of the Joint Operational Staff will be accountable, will be responsible for planning and conducting operations based on prepared units of the AFU to be transferred to his command.

The responsibility for the training of troops is assigned to the Commanders of the branches of the troops (Land, Air Force, and Navy), as well as to the equal by the status Commander of the Air Assault Force and the Commander of the Special Operations Forces. Their powers regarding the choice of military equipment and armaments for subordinate commanders of troops, ways of their training will increase.

Such a structure fully meets the requirements of NATO and should improve the management of troops in Ukraine. If everything goes well, then after 5 years Ukraine can apply for NATO membership.

The second key requirement of the Allies of Ukraine is the transparency of the Ministry of Defence's finances. The law first introduces the concept of civilian control over the country's defence budget. According to the law, citizens can control finances both personally through the Commissioner for Human Rights and through public associations (Article 10).

The law achieved the maximum transparency of the defence budget, which will be limited only by the Law "On State Secrets". In our country, the defence budget is 160 billion UAH. Of these, only one tenth part, about 16 billion, will be classified. This is a state defence order, disclosure of this

information can put the country under attack.

The state secret will be only information with the corresponding stamp. At the same time, the information marked "for official use" and "for internal use" will become accessible to citizens and journalists. Thus, citizens of Ukraine will have the opportunity to control the security and defence sector on the basis of the mechanisms and practices that are in the NATO countries. But without amending the Law on State Secrets (which is not provided for in the Final and Transitional Provisions of the Law), although the new version broadens citizens' access to defence information, it does not solve the problem.

In addition, the law also introduces the notion of civilian control over the security and defence sector. It gives the Verkhovna Rada a large range of security and defence sector control instruments. A separate committee of the Verkhovna Rada, which will be in charge of the SSU and intelligence, will be created. The composition and functions of this Verkhovna Rada Committee will be more detailed in a special law to be adopted in the next six months after the entry into force of the law on national security.

Also, the Verkhovna Rada rejected the suggestion to consolidate in a new basic law the creation of a special defence and industrial complex (DIC) responsible for the formation and maintenance of state defence and industrial policy in the system of central executive power. Nowadays, in accordance with the current law of Ukraine, the state-owned enterprise "Ukroboronprom", created in 2010, provides management

of state-owned items in the defence industry. At the same time under the current conditions, according to the military department, the private sector of the defence industry, which now has more than 100 defence companies, provides about 50 percent of the state defence order.

A separate place in the security sector belongs to the National Guard. In accordance with the law, the National Guard is a military formation with law enforcement functions (Article 18). Among these functions are the provision of state security and protection of the state border of Ukraine, the cessation of terrorist activities, the activities of illegal militarized or armed groups, organized crime groups and organizations.

In peacetime, the National Guard together with the police and the SSU is part of the security forces, and in wartime it passes from the Security Forces to the Defence Forces by a decree of the President. During the war, the strategic leadership of the National Guard is exercised by the President of Ukraine through the General Staff of the Armed Forces of Ukraine. Such a revision of the rule of law was voiced at the meeting of deputies and international partners.

The Security Service of Ukraine is envisioned to provide state security: countering intelligence and subversion activities against Ukraine; the fight against terrorism; counter-intelligence protection of state sovereignty, constitutional order and territorial integrity, defence and scientific and technical potential, cybersecurity, economic and information security of the state, objects of critical infrastructure; protection of state secrets.

The head of the SSU is appointed and dismissed from office by the Verkhovna Rada at the request of the President of Ukraine. It was established that the SSU is a state body of special purpose with law enforcement functions, which ensures the state security of Ukraine. There were a lot of comments from the deputies and public associations about the powers of the SSU. The parliamentarians of certain fractions demanded that this service be deprived of its not inherent functions in the sphere of economy and the fight against corruption, since, in their words, these powers already exist in the newly established law enforcement agencies (NABU, SAP, SIB), and the Security Service now uses them for their own selfish purposes. But the Verkhovna Rada did not support these changes.

According to the law, the Office of the State Protection of Ukraine is subordinated to the president and under the parliament control. The head of the OSP is appointed and dismissed from office by the president. [10]

Conclusion and prospects for further research. The adopted law will allow the President of Ukraine more effectively represent the interests of our state on the Brussels Summit of NATO on July 11–13, 2018. Now it is possible to ask questions not only about expanding cooperation, but also about a new format of cooperation such as the Enhanced Opportunities Partnership.

NATO's Brussels Summit has accepted declarative but rather important decisions for Ukraine. They did not invite Ukraine to the Enforcement Partnership – France and the Netherlands opposed such a step, considering it premature.

However, NATO countries recognized the Ukrainian aspiration to become a member of the bloc, and also reaffirmed the decision of the Bucharest summit decades ago on the open door of the Alliance. Despite the fact that it is not about any official status (which gives a plan of action for membership in NATO), this decision is also important. In any case, for the last 4 years, the Alliance has been consistently, albeit not rapidly, rapprochement with Ukraine. And the prospect of such a rapprochement can be seen on the example of Georgia. The Alliance declared that the Georgians are moving towards NATO membership and will also receive an action plan for membership in NATO.

With this, the new law can not be accepted as the end of the process of reforming the security and defence sector. Many of its key parts will enter into force only in 2019 and 2021. For example, a civilian defence minister will appear in Ukraine next year, and the division of powers in the General Staff is postponed until 2021. But one way or another, the law on national security gives a start and a basis for further work. This is definitely a big step in the right direction, which makes us closer to NATO.

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