

## ФУНКЦІЇ ТА ПОВНОВАЖЕННЯ ПРЕЗИДЕНТА УКРАЇНИ У СФЕРІ НАЦІОНАЛЬНОЇ БЕЗПЕКИ Й ОБОРОНИ: ПРОБЛЕМИ КОНСТИТУЦІЙНОГО МЕХАНІЗМУ РЕАЛІЗАЦІЇ

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*У науковій статті досліджено проблеми конституційного механізму реалізації функцій та повноважень Президента України у сфері національної безпеки й оборони.*

*Встановлено, що конституційні повноваження Президента України у сфері національної безпеки й оборони мають надто узагальнений, фрагментарний і несистематизований характер. Це не лише ускладнює, а й провокує дискреційну форму реалізації статусу Президента України як гаранта державного суверенітету та територіальної цілісності України, керівника системи національної безпеки України та її зовнішньополітичної діяльності, Верховного Головнокомандувача Збройних Сил України, загрожує порушенням Президентом України меж його конституційної компетенції.*

*Обґрунтовано потребу розширити перелік конституційних повноважень Президента України у сфері національної безпеки й оборони з метою належного забезпечення його конституційних функцій у цій сфері.*

*Досліджено проблеми реалізації функцій та повноважень Президента України у сфері національної безпеки й оборони в умовах прийнятої в Україні змішаної республіканської форми правління. Встановлена Конституцією України дуалістична організація виконавчої влади зумовлює функціональну залежність Президента України від Кабінету Міністрів України. Уряд та підпорядкована йому*

### Рекомендоване посилання:

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система відповідних органів виконавчої влади опосередковують реалізацію функцій та повноважень Президента України у сфері національної безпеки й оборони. Водночас закріплені в Конституції України інструменти впливу Президента України на Кабінет Міністрів України недостатні для ефективної реалізації компетенції Президента України у сфері національної безпеки й оборони через систему органів виконавчої влади.

**Ключові слова:** президент, уряд, конституція, гарант, компетенція, функції, повноваження, сфера національної безпеки й оборони, державний суверенітет, територіальна цілісність держави.

## **FUNCTIONS AND POWERS OF THE PRESIDENT OF UKRAINE IN THE FIELD OF NATIONAL SECURITY AND DEFENSE: PROBLEMS OF THE CONSTITUTIONAL MECHANISM OF IMPLEMENTATION**

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*The research article examines the problems of the constitutional mechanism for the implementation of the functions and powers of the President of Ukraine in the sphere of national security and defense.*

*The article establishes that the constitutional powers of the President of Ukraine in the sphere of national security and defense are too generalized, fragmentary and unsystematic. That not only complicates, but also provokes a discretionary form of implementation of the status of the President of Ukraine as the guarantor of state sovereignty and territorial integrity of Ukraine, the head of the national security system of Ukraine and its foreign policy activities, the Supreme Commander-in-Chief of the Armed Forces of Ukraine, and threatens the President of Ukraine with a violation of the limits of his constitutional competence.*

*The need to expand the list of constitutional powers of the President of Ukraine in the sphere of national security and defense is substantiated in order to properly ensure his constitutional functions in this sphere.*

*The article investigates the problems of the implementation of the functions and powers of the President of Ukraine in the sphere of national security and defense under the conditions of the mixed republican form of government adopted in Ukraine. The dualistic organization of the executive branch established by*

*the Constitution of Ukraine determines the functional dependence of the President of Ukraine on the Cabinet of Ministers of Ukraine. The Government and the system of relevant executive bodies subordinate to it mediate the implementation of the functions and powers of the President of Ukraine in the sphere of national security and defense. At the same time, the instruments of influence of the President of Ukraine on the Cabinet of Ministers of Ukraine enshrined in the Constitution of Ukraine are insufficient for the effective implementation of the competence of the President of Ukraine in the sphere of national security and defense through the system of executive bodies.*

**Key words:** *president, government, constitution, guarantor, competence, functions, powers, sphere of national security and defense, state sovereignty, territorial integrity of the state.*

### Topic relevance

The relevance of studying the problems of the constitutional mechanism for implementing the functions and powers of the President of Ukraine in the sphere of national security and defense is due to a set of political, security and constitutional factors that are of fundamental importance for the modern development of the Ukrainian state.

In the conditions of armed aggression by the Russian Federation, the role of the President of Ukraine as a guarantor of state sovereignty, territorial integrity of Ukraine and the Supreme Commander-in-Chief of the Armed Forces of Ukraine has increased significantly. This objectively actualizes the study of the mechanism for implementing the aforementioned status, its compliance with the principles of the rule of law, separation of powers and democratic civilian control over the security and defense sector.

The powers of the President of Ukraine in the sphere of national security and defense, enshrined in the Constitution of Ukraine, are characterized by significant generalization, fragmentation and unsystematicity. The conditions of war also demonstrated the need for a clear constitutional definition of the mechanism of interaction between the President of Ukraine and other higher state authorities, namely the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine in the field of national security and defense, as well as other bodies and leaders of the security and defense sector authorized to exercise leadership and coordination functions in the field of national security and defense – the Minister of Defense of Ukraine, the Minister of Internal Affairs of Ukraine, the Commander-in-Chief of the Armed Forces of Ukraine, the National Security and Defense Council of Ukraine, the Headquarters of the Supreme Commander-in-Chief, the General Staff of the Armed Forces of Ukraine, etc. The lack of constitutional regulation of the mechanism of interaction between the President of Ukraine and the aforementioned entities in the process of implementing his constitutional functions and powers in the field of national security and defense gives rise to inconsistencies, duplication of actions and problems of responsibility, which negatively affects the effectiveness of adopting and implementing strategic decisions in this area.

The transformation of the national security system of Ukraine in the context of the current

Russian-Ukrainian war, Ukraine's Euro-Atlantic integration, and the harmonization of its legislation with European Union law and NATO standards requires a rethinking of the role of the President of Ukraine as a leading entity in the security and defense sector, and proper provision of his status as a guarantor of the state sovereignty and territorial integrity of Ukraine with the appropriate constitutional powers. The President of Ukraine's guarantee of the state sovereignty and territorial integrity of Ukraine testifies to the existence of problems related to ensuring the constitutional functions of the President of Ukraine by his own constitutional powers, the implementation of the functions and powers of the President of Ukraine through the system of executive bodies, the mechanism of interaction of the President of Ukraine with other bodies and leaders of the security and defense sector, the implementation of democratic civilian control over the activities of the President of Ukraine in the field of national security and defense, and the possibility of the President of Ukraine applying the doctrine of "hidden" presidential powers in his activities. The lack of a systematic doctrinal approach to solving these problems complicates the formation of effective practice in implementing the constitutional status of the President of Ukraine as the guarantor of state sovereignty and territorial integrity of Ukraine.

### Research status

The issue of the implementation of the functions and powers of the President of Ukraine in the sphere of national security and defense in the domestic professional environment is a subject of scientific attention, as it concerns the basic foundations of Ukrainian statehood, the supreme command of the Armed Forces of Ukraine and democratic civilian control over the security and defense sector of Ukraine. At the same time, despite the extreme relevance of the issue of the implementation of the functions and powers of the President of Ukraine in the sphere of national security and defense, it remains generally insufficiently researched. It is noteworthy that in Ukrainian legal research there are no special monographic studies on this issue; at this level, the issue of the implementation of the functions and powers of the President of Ukraine in the sphere of national security and defense remains developed to this day within the framework of thematically

broader studies of the institution of the president and certain issues of national security of Ukraine. At the same time, the issues of implementing the functions and powers of the President of Ukraine in the sphere of national security and defense are directly reflected in a number of scientific articles by such, in particular, Ukrainian researchers as V. Topolynskyy, H. Honcharenko, I. Koropatnik, O. Kotliarenko, O. Ostapenko, S. Melnyk.

#### **Purpose of the article**

The purpose of the article is to study the problematic aspects of the constitutional mechanism for implementing the functions and powers of the President of Ukraine in the sphere of national security and defense.

#### **Presentation of the main material**

### **The role and place of the President of Ukraine in the sphere of national security and defense**

In the sphere of national security and defense, the role of the President of Ukraine is associated with the general (political) leadership of the bodies that ensure the national security and defense capability of Ukraine. Among the bodies being the subjects of the security and defense forces, the President of Ukraine occupies a leading place, since he heads their system, controls, coordinates and assorts their activities.

Ensuring the national security of Ukraine, guaranteeing its sovereignty and territorial integrity depend to a decisive extent on the coordinated activities of the relevant state authorities. As the head of state, the President of Ukraine is called upon to ensure their interaction (coordinated activities) in the sphere of national security and defense (Decision, No. 2-рп/2009, 2009; Decision, No. 5-рп/2009, 2009). Russian armed aggression has given, in particular, the utmost importance to the role of the President of Ukraine as the coordinator of the mechanism of interaction of all subjects of the security forces and defense forces (Koropatnik & Ostapenko, 2022).

The place of the President of Ukraine among the state authorities that directly or indirectly ensure the national security and defense capability of Ukraine is special. Although all these bodies have certain powers in the field of national security and defense, only the President of Ukraine is endowed with constitutional powers to exercise supreme leadership and strategic coordination in this area. In exercising such leadership and coordination, the President of Ukraine directs and coordinates the activities of the security and defense sector entities (Honcharenko, 2020).

The complex and multifaceted task of ensuring the national security and defense capability of the Ukrainian state in the conditions of large-scale armed Russian Federation's aggression particularly determines the need to coordinate the actions of the security and defense sector entities. The leadership and coordination role of the President of Ukraine in the field of national

security and defense corresponds to the universal nature of his competence, which covers all spheres of state and government activity. The President of Ukraine, as the head of state, the guarantor of the state sovereignty and territorial integrity of Ukraine, the Supreme Commander-in-Chief of the Armed Forces of Ukraine, directs the state authorities called upon to ensure the national security and defense capability of Ukraine, coordinates and assorts their activities.

The provisions of the Constitution of Ukraine, which define the role of the President of Ukraine in the sphere of national security and defense, testify that the President of Ukraine is closely connected with all aspects of Ukraine's national security and with all manifestations of threats to it (Todyka & Yavorskyi, 1999).

The President of Ukraine is the head of the Ukrainian state, the guarantor of its sovereignty and territorial integrity. The President of Ukraine is responsible for implementing the strategic course of Ukraine aimed at obtaining the status of a full member of the European Union and the North Atlantic Alliance (Article 102 of the Constitution of Ukraine). The President of Ukraine ensures the independence and national security of Ukraine (Clause 1 of Part 1 of Article 106 of the Constitution of Ukraine), he is the Supreme Commander-in-Chief of the Armed Forces of Ukraine and in this status appoints and dismisses representatives of the high command of the defense forces, exercises general leadership in the field of national security and defense (Clause 17 of Part 1 of Article 106 of the Constitution of Ukraine), being the Chairman of the National Security and Defense Council of Ukraine (Clause 18 of Part 1 of Article 106 of the Constitution of Ukraine). The combination of the aforementioned statuses in the person of the President of Ukraine – head of state, guarantor of constitutional values, Supreme Commander-in-Chief of the Armed Forces of Ukraine, and head of the National Security and Defense Council of Ukraine – testifies to their close functional relationship (Kotliarenko, 2022). The status of the President of Ukraine as the Supreme Commander-in-Chief of the Armed Forces of Ukraine turns him into the main guarantor of state sovereignty and territorial integrity of Ukraine, while the status of the head of the National Security and Defense Council of Ukraine change him into the main coordinator of the process of making strategic decisions on issues of national security and defense.

Performing the functions of the head of the national security system and the Supreme Commander-in-Chief of the Armed Forces of Ukraine, the President of Ukraine plays a leading role in the formation of state policy in the field of national security and defense. It is he who outlines the strategic guidelines for the development of the security and defense sector, determines approaches to the development of security forces and defense forces, and directs the activities

of the Cabinet of Ministers of Ukraine and other entities of the security and defense sector for their implementation (Todyka & Yavorskyi, 1999). The President of Ukraine is responsible for developing the most important documents of long-term strategic planning in the field of national security and defense, such as the National Security Strategy of Ukraine and the Military Security Strategy of Ukraine, etc. By exercising leadership in the field of national security and defense, the President of Ukraine ensures the ability of the security forces and defense forces to fulfill the tasks assigned to them (Decision, No. 5-pr/2009, 2009).

As the Head of the National Security and Defense Council of Ukraine, the President of Ukraine ensures strategic coordination and harmonization of the activities of state authorities in the field of national security and defense. Heading the National Security and Defense Council of Ukraine, the President of Ukraine ensures an operational response to internal and external threats to the national security and defense of Ukraine, develops, discusses at the highest state level and adopts the most important decisions in the field of national security and defense, organizes their implementation. The status of the Head of the National Security and Defense Council of Ukraine allows the President of Ukraine to integrate political, military, economic and information aspects of Ukraine's national security into a single national security strategy, as well as to make the decisions of the National Security and Defense Council of Ukraine binding by putting them into effect by his decrees, which enhances the effectiveness of state management of Ukraine's national security and defense in crisis conditions.

#### **Functions and powers of the President of Ukraine in the sphere of national security and defense**

According to Article 102 of the Constitution of Ukraine, the defining function of the President of Ukraine in the sphere of national security and defense is to guarantee the state sovereignty and territorial integrity of Ukraine. Other functions of the President of Ukraine in this sphere are related to guaranteeing compliance with the Constitution of Ukraine, the rights and freedoms of man and citizen, and the implementation of the strategic course of the state towards the acquisition of full membership of Ukraine in the European Union and the North Atlantic Treaty Organization.

Article 106 of the Constitution of Ukraine, which establishes most of the powers of the President of Ukraine, also generally defines his powers in the sphere of national security and defense. These powers of the President of Ukraine are normative instruments for the implementation of his strategic constitutional function as the guarantor of the state sovereignty and territorial integrity of Ukraine, and they are determined by his dominant (leading) role in the sphere of national security and defense of Ukraine.

According to Article 106 of the Constitution of Ukraine, the President of Ukraine exercises the following powers that directly or indirectly relate to the sphere of national security and defense:

- ensures state independence, national security and legal succession of the state (Clause 1 of Part 1 of Article 106);
- addresses messages to the people and annual and extraordinary messages to the Verkhovna Rada of Ukraine on the internal and external situation of Ukraine (Clause 2 of Part 1 of Article 106);
- represents the state in international relations, manages the foreign policy activities of the state, negotiates and concludes international treaties of Ukraine (Clause 3 of Part 1 of Article 106);
- submits to the Verkhovna Rada of Ukraine a proposal on the appointment of the Prime Minister of Ukraine, the Minister of Defense of Ukraine, the Minister of Foreign Affairs of Ukraine (Clauses 9–10 of Part 1 of Article 106);
- submits to the Verkhovna Rada of Ukraine a proposal on the appointment and dismissal of the Head of the Security Service of Ukraine (Clause 14 of Part 1 of Article 106);
- is the Supreme Commander-in-Chief of the Armed Forces of Ukraine; appoints to positions and dismisses from positions the higher command of the Armed Forces of Ukraine, other military formations; exercises leadership in the field of national security and defense of the state (Clause 17 of Part 1 of Article 106);
- heads the National Security and Defense Council of Ukraine (Clause 18 of Part 1 of Article 106);
- submits to the Verkhovna Rada of Ukraine a proposal on the declaration of a state of war and, in the event of armed aggression against Ukraine, adopts a decision on the use of the Armed Forces of Ukraine and other military formations formed in accordance with the laws of Ukraine (Clause 19 of Part 1 of Article 106);
- adopts, in accordance with the law, a decision on general or partial mobilization and introduces martial law in Ukraine or in its individual localities in the event of a threat of attack or danger to the state independence of Ukraine (Clause 20 of Part 1 of Article 106);
- confers higher military ranks (Clause 24 of Part 1 of Article 106);
- awards state awards; establishes presidential decorations and awards them (Clause 25 of Part 1 of Article 106);
- introduces a state of emergency in Ukraine or in its individual localities, declares, if necessary, individual localities of Ukraine as zones of an emergency ecological situation (Clause 21 of Article 106 of the Constitution of Ukraine).

The President of Ukraine has the right of legislative initiative in the Verkhovna Rada of Ukraine (Article 93 of the Constitution of Ukraine), in particular on issues of national security and defense.

The President of Ukraine has the right to veto laws adopted by the Verkhovna Rada of Ukraine

(except for laws on amendments to the Constitution of Ukraine) with their subsequent return for reconsideration by the Verkhovna Rada of Ukraine (Clause 30 of Article 106 of the Constitution of Ukraine). The President of Ukraine may veto laws of the Verkhovna Rada of Ukraine, in particular, on the grounds of their inconsistency with the national interests of Ukraine or with specific provisions of the Constitution of Ukraine on national security and defense of Ukraine.

The President of Ukraine signs laws approved by the Verkhovna Rada of Ukraine (Clause 29 of Article 106 of the Constitution of Ukraine), in particular, laws on national security and defense.

According to Article 150 of the Constitution of Ukraine, the President of Ukraine is the subject of the right to appeal to the Constitutional Court of Ukraine to resolve issues of compliance with the Constitution of Ukraine, in particular its provisions on national security and defense, of laws and other legal acts of the Verkhovna Rada of Ukraine, acts of the Cabinet of Ministers of Ukraine, as well as on the official interpretation of the Constitution of Ukraine, in particular its provisions relating to national security and defense.

#### **Problems of ensuring the constitutional functions of the President of Ukraine by his constitutional powers**

The lack of legal techniques in constructing the constitutional status of the president may cause the insufficiency of the constitutionally established powers of the president to exercise his constitutional functions. The lack of proper provision of the constitutional functions of the president by his constitutional powers entails the risk of transforming certain functions of the president into legal fictions or the president using “hidden” powers, i.e. powers not directly provided for by the constitution, for their implementation. The consolidation of the functions and powers of the President of Ukraine in Chapter V of the Constitution of Ukraine is a clear confirmation of the aforementioned risk. The Constitution of Ukraine lacks a separate and integral regulation of the powers of the President of Ukraine in the sphere of national security and defense. A number of powers of the President of Ukraine in the sphere of national security and defense are enshrined in the Constitution of Ukraine indirectly, through the constitutional fixation of his other powers. This obvious flaw in the constitutional regulation of the status of the President of Ukraine as the guarantor of state sovereignty and territorial integrity of Ukraine provokes a discretionary form of its implementation.

According to Clause 31 of Part 1 of Article 106 of the Constitution of Ukraine, the President of Ukraine “exercises... the powers defined by the Constitution of Ukraine” (Constitution of Ukraine, 1996). It is obvious that the cited constitutional provision can only be interpreted literally (Shapoval, 2004). Since the powers of the President of Ukraine are defined directly and exhaustively

in the Constitution of Ukraine, he cannot resort to exercising his constitutional functions by means of some “hidden” powers. Although the constitutional powers of the President of Ukraine can and should be specified at the legislative level, such legislative detailing of the constitutional status of the President of Ukraine cannot lead to the emergence of any new powers (Decision, No. 17-rp/2009, 2009). At the same time, the President of Ukraine, guaranteeing the state sovereignty and territorial integrity of Ukraine, ensuring its national security in difficult and dangerous conditions of war, should not be bound in his actions by the defects of his constitutional status, which prevent him from acting effectively in emergency situations. The enemy is not bound by rules, and the president, who is obliged to repel sudden attacks and respond to the actions of a not very discerning enemy, should have no less freedom of action (Holmes, 1993).

In fact, the improper provision of the status of the President of Ukraine as a guarantor of the state sovereignty and territorial integrity of Ukraine by his own constitutional powers opens up a wide field for the head of state for discretionary actions and the application of his so-called hidden powers in the field of national security and defense. However, the implementation of these powers may take the President of Ukraine beyond his constitutionally defined functional limits (Martyniuk & Datsiuk, 2024).

Another consequence of the absence of a separate and holistic regulation of the powers of the President of Ukraine in the sphere of national security and defense in the Constitution of Ukraine is their “dispersion” among many laws (Topolynskiy & Ostapenko, 2022).

The competence of the President of Ukraine in the sphere of national security and defense is most comprehensively disclosed in Article 13 of the Law of Ukraine “On National Security of Ukraine” dated June 21, 2018 under the title “Leadership in the Spheres of National Security and Defense” (On the National Security of Ukraine, 1998). From the point of view of the Law of Ukraine “On National Security of Ukraine”, the role and place of the President of Ukraine in the sphere of national security and defense are that he exercises supreme strategic leadership in this sphere over the system of bodies that directly ensure the national security and defense capability of Ukraine. According to Article 13 of the Law, the leadership of the President of Ukraine in the sphere of national security and defense has the meaning of a basic authority, the implementation of which is subordinate to the entire system of powers of the President of Ukraine in the sphere of national security and defense, defined by the Law. The composition of Article 13 testifies that the powers of the President of Ukraine listed therein are derived from his leadership role in the sphere of national security and defense and these powers are exercised by the head of state in the process of leadership in the aforementioned sphere (Kotliarenko, 2022). However, such logic of the legal

definition of the powers of the President of Ukraine in the sphere of national security and defense is not reflected in the Constitution of Ukraine.

It is also noteworthy that the conditionality of part of the powers of the President of Ukraine, enshrined in Article 13 of the Law of Ukraine "On National Security of Ukraine", by his constitutional powers in the sphere of national security and defense is not very obvious. Therefore, it is important that the powers of the President of Ukraine in the sphere of national security and defense are comprehensively and systematically enshrined directly in the Constitution of Ukraine.

#### **Implementation of the functions and powers of the President of Ukraine through the system of executive bodies**

In Ukraine, given the adopted mixed republican form of government, the functions and powers of the President of Ukraine in the field of national security and defense are interconnected with the powers of the Cabinet of Ministers of Ukraine. It is the Cabinet of Ministers of Ukraine that has the necessary means for the effective implementation of the acts of the President of Ukraine in the field of national security and defense (Todyka & Yavorskyi, 1999). The President of Ukraine guarantees the state sovereignty and territorial integrity of Ukraine, ensures the independence and national security of Ukraine through the Cabinet of Ministers of Ukraine and the system of relevant executive bodies subordinate to the government. These bodies and their officials mediate the implementation of the constitutional status of the President of Ukraine as the guarantor of the state sovereignty and territorial integrity of Ukraine. The role of the Cabinet of Ministers of Ukraine in the mechanism for implementing the functions and powers of the President of Ukraine is emphasized by the provisions of the Constitution of Ukraine that the Government in its activities is guided by the acts of the President of Ukraine (Article 113) and "ensures ... the implementation of ... acts of the President of Ukraine" (Clause 1 of Article 116) (Constitution of Ukraine, 1996).

Given the joint competence of the President of Ukraine and the Cabinet of Ministers of Ukraine in the field of national security and defense, the status of the President of Ukraine as the guarantor of state sovereignty and territorial integrity of Ukraine, the Supreme Commander-in-Chief of the Armed Forces of Ukraine, is also linked to the status of the President of Ukraine as the Chairman of the National Security and Defense Council of Ukraine (Clause 18 of Article 106, Part 3 of Article 107 of the Constitution of Ukraine). It is the National Security and Defense Council of Ukraine that ensures the implementation of the relevant functions and powers of the President of Ukraine through the system of executive bodies. The official position of the President of Ukraine, expressed in the form of decisions of the National Security and Defense Council of Ukraine on specific issues of government activity, is imperative

for the latter. According to Part 4 of Article 10 of the Law of Ukraine "On the National Security and Defense Council of Ukraine" of March 5, 1998, the decisions of the National Security and Defense Council of Ukraine, put into effect by decrees of the President of Ukraine, are mandatory for implementing by executive bodies (On the National Security and Defense Council of Ukraine), and according to Part 1 of Article 26 of the Law of Ukraine "On the Cabinet of Ministers of Ukraine" of February 27, 2014, "The Cabinet of Ministers of Ukraine ensures the execution of decisions of the National Security and Defense Council of Ukraine, put into effect by decrees of the President of Ukraine, which comply with the provisions of the Constitution of Ukraine" (On the Cabinet of Ministers of Ukraine, 2014).

The defining problem associated with the implementation by the President of Ukraine of his functions and powers in the field of national security and defense with the participation of the Cabinet of Ministers of Ukraine is that the President of Ukraine does not have sufficient constitutional means of influencing the Cabinet of Ministers of Ukraine.

As a result of the constitutional reform carried out on December 8, 2004, the President of Ukraine lost fundamentally important instruments of direct influence on the Cabinet of Ministers of Ukraine, i.e. the right to appoint members of the government, the right to dismiss them from office, the right to terminate the powers of the Cabinet of Ministers of Ukraine in general, the right to cancel government acts. The independence of the Cabinet of Ministers of Ukraine from the President of Ukraine has reached a level that allows the government to pursue a political course that is actually opposed to the political course of the head of state. Given the different party affiliations of the President of Ukraine and the Prime Minister of Ukraine, the absence of effective instruments of influence on the Cabinet of Ministers of Ukraine by the President of Ukraine threatens to cause serious complications in the exercise of the functions and powers of the President of Ukraine in the field of national security and defense.

Today, the only effective instrument of influence of the President of Ukraine on the activities of the Cabinet of Ministers of Ukraine in the field of national security and defense is the chairmanship of the President of Ukraine in the Council of National Security and Defense of Ukraine, whose members are ex officio the Prime Minister of Ukraine, the Minister of Defense of Ukraine, the Minister of Internal Affairs of Ukraine, and the Minister of Foreign Affairs of Ukraine. But although, according to the Constitution of Ukraine, direct subordination of these officials to the President of Ukraine without the participation of the government is impossible (Averyanov et al., 2009), the chairmanship of the President of Ukraine in the National Security and Defense Council of Ukraine creates a certain possibility for the President of Ukraine to

directly influence them (Averyanov, 2010). Such influence, however, is insufficient for the effective implementation of the status of the President of Ukraine as a guarantor of state sovereignty and territorial integrity of Ukraine through the system of executive bodies, which raises the issue of finding more effective instruments of influence of the President of Ukraine on the activities of the Cabinet of Ministers of Ukraine in the field of national security and defense.

### Conclusions

The role of the President of Ukraine in the sphere of national security and defense is associated with the general (political) leadership of the bodies that ensure the national security and defense capability of Ukraine. Among the bodies being subjects of the security and defense forces, the President of Ukraine occupies a leading position, since he heads their system, controls, coordinates and assorts their activities.

The powers of the President of Ukraine in the sphere of national security and defense are normative instruments for the implementation of his strategic constitutional function as the guarantor of the state sovereignty and territorial integrity of Ukraine and are determined by his dominant (leading) role in the sphere of national security and defense of Ukraine.

The Constitution of Ukraine lacks a separate and integral regulation of the powers of the President of Ukraine in the sphere of national security and defense. This obvious flaw in the constitutional regulation of the status of the President of Ukraine as the guarantor of the state sovereignty and territorial integrity of Ukraine provokes a discretionary form of its implementation.

The importance of the spheres of state and government activity for which the President of Ukraine is responsible requires that his constitutional functions be fully ensured by his own constitutional powers. Excessive generalization and fragmentation of the constitutional consolidation of the powers of the President of Ukraine in the sphere of national security and defense impedes the effective implementation of his status as a guarantor of state sovereignty and territorial integrity of Ukraine, and creates a threat that the President of Ukraine will go beyond his constitutional competence.

In Ukraine, under the conditions of a mixed republican form of government, the implementation of the functions and powers of the President of Ukraine in the sphere of national security and defense is mediated by the Cabinet of Ministers of Ukraine and the system of relevant executive bodies subordinate to the government. At the same time, the President of Ukraine does not have sufficient constitutional instruments of influence on the Cabinet of Ministers of Ukraine.

The constitutional reform of December 8, 2004, having deprived the President of Ukraine of fundamentally important instruments of his direct influence on the Cabinet of Ministers of Ukraine, left

at the disposal of the head of state the only effective instrument of influence on the activities of the Cabinet of Ministers of Ukraine in the sphere of national security and defense which is the chairmanship of the President of Ukraine in the National Security and Defense Council of Ukraine, whose members are ex officio members of the government. However, such an instrument of influence is not enough for the effective implementation of the functions and powers of the President of Ukraine in the sphere of national security and defense through the system of executive bodies.

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