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Diana Mykytiuk

ORCID ID: <https://orcid.org/0000-0002-8615-8786>

V.M. Koretsky Institute of State and Law of the National Academy of Sciences of Ukraine

INSTITUTIONAL MECHANISM FOR ENSURING THE LEGAL STATUS OF A PARTICIPANT IN HOSTILITIES IN THE EAST OF UKRAINE

The Russian-Ukrainian war has led to the emergence of a new category of combatants, precisely those who took part in the Anti-Terrorist Operation/Joint Forces Operation. Veterans of the armed conflict in eastern Ukraine receive the status of a participant in hostilities. In the last five years, about 400,000 men and women have been directly involved in the fighting. Such a rapid growth rate requires an appropriate institutional mechanism to ensure the implementation of the legal status of this category of war veterans. The article comprehensively considers the system of public administration authorities that ensure the realization of the rights and freedoms of participants in hostilities as the main subjects of the armed conflict in eastern Ukraine. It is proposed to systematize public administration bodies by the nature of their activities. Based on this criterion, a group of public administration entities is distinguished for which public activity is the main one, and a group of public administration entities that do not belong to any branch of government, but ensure the realization of the rights and freedoms of the participants in hostilities. In addition, the powers of public and volunteer organizations are described that promote and ensure the rights of participants in the Anti-Terrorist Operation/Joint Forces Operation. The shortcomings of the existing institutional mechanism are identified and possible ways to overcome them are suggested. In particular, there is the problem of duplication of functions of Ministry of Veterans Affairs of Ukraine with the functions of the Commissioner of the President of Ukraine for Rehabilitation of the Participants in Hostilities, and with the functions of Advisory Board of Veteran Affairs, Families of Deceased (Dead) Defenders of Ukraine as an advisory agency under the President of Ukraine.

Keywords: public administration authorities, ensuring the implementation of the legal status of participants in hostilities, war veteran, ATO/JFO participant, institutional mechanism.

Problem statement. The Russian-Ukrainian war became a challenge for our country both to ensure state security and defense, and to ensure human rights and freedoms in the new social relations that arose in connection with the beginning of the Anti-Terrorist Operation (hereinafter – ATO), and later Joint Forces Operation (hereinafter – JFO). The main duty of the state is to establish and ensure human rights and freedoms¹, including those of participants in hostilities, which are the main subjects of events in eastern Ukraine, and this duty is realized through the activities of authorized public administration bodies.

Therefore, **the purpose of the article** is to review and analyze the system of public administration authorities to ensure the implementation of the legal status of participants in hostilities in eastern Ukraine (hereinafter – PHs).

Results of the research. In this article, we interpret the term “public administration” as a set of executive bodies, local governments and bodies that perform the functions of executive bodies and local governments delegated to them. This approach is described in the Law of Ukraine “On the status of war veterans and the guarantees of their social protection” from October, 22, 1993² (hereinafter – the Law), that regulates the legal status of PHs in Ukraine. In the part 1 of Art. 20 it is stated that public organizations

¹ Конституція України, 1996 (Верховна Рада України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>> (2021, March, 01).

² Закон про статус ветеранів війни, гарантії їх соціального захисту, 1993 (Верховна Рада України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/3551-12#Text>> (2021, March, 01).

and other associations of war veterans within their powers promote the development of decisions by the legislative and executive authorities, represent and protect the legitimate interests of their members in state bodies and public organizations, exercise other powers under the legislation of Ukraine that concerns the association of citizens. In addition, local councils, enterprises, institutions and organizations have the right to establish additional guarantees for the social protection of war veterans at their own expense and from charitable income (part 4 Art. 2 of the Law)¹.

Taking into account the situation in eastern Ukraine, the institutional mechanism for ensuring the status of PH will be incomplete if we do not take into account the activities of authorities for which public administration is not the main activity, or this activity is performed by them under certain circumstances or conditions. For these reasons, this mechanism to ensure the legal status of PH, in our opinion, should include:

1) subjects of public administration for which public activity is the main one (executive bodies, local self-government bodies, the President of Ukraine);

2) subjects of public administration, for which public activity is not the main one, which do not belong to any branch of the government, but ensure the realization of the rights and freedoms of the PHs (the commissions for granting the status of PH that are the parts of legitimate military and law enforcement formations of Ukraine, military-civil administrations).

In addition, we will highlight public and volunteer organizations that promote the provision and implementation of the rights of ATO/JFO participants.

The leading place in the field of ensuring the rights of PH belongs to the Cabinet of Ministers of Ukraine as the highest executive body. According to para.19 part 2, para.20 part 2, para.22 part 2 Art. 6 of the Law,² the procedure for granting and depriving the status of PH in Eastern Ukraine is determined by the Resolution of the Cabinet of Ministers of Ukraine “On approval of the Procedure for granting and depriving the status of a participant in hostilities of the persons which have protected independency, sovereignty and territorial integrity of Ukraine and have taken part in anti-terrorist operation, ensured its conduction or ensured national security and defense, repelled and deterred armed aggression of the Russian Federation in Donetsk and Luhansk regions, ensured their implementation” from August 20, 2014 № 413 (hereinafter – the Procedure³). The Cabinet of Ministers of Ukraine also establishes the procedure for making and issuing certificates and badges of war veterans according to the part 1 of Art. 18 of the Law⁴.

According to the mark to Art. 5 of the Law⁵, the Cabinet of Ministers of Ukraine determines the list of units that were the part of the active army and other formations. These are the units that included persons applying for the status of PH. In addition, the areas of Anti-Terrorist Operation/Joint Forces Operation are also determined by the acts of the Cabinet of Ministers of Ukraine (para. 19 part 2 Art. 6 of the Law⁶). For example, these are 1) the order “On approval of the list of settlements where the Anti-Terrorist Operation was carried out, and recognition of some orders of the Cabinet of Ministers of Ukraine as those that have been expired” from December 2, 2015 № 1275- p⁷, and 2) the order “On amendments to the appendix to the order of the Cabinet of Ministers of Ukraine from December 2, 2015 № 1275” from January 23, 2019 № 28- p⁸.

¹ Там само.

² Там само.

³ *Постанова про затвердження Порядку надання та позбавлення статусу учасника бойових дій осіб, які захищали незалежність, суверенітет та територіальну цілісність України і брали безпосередню участь в антитерористичній операції, забезпеченні її проведення чи у здійсненні заходів із забезпечення національної безпеки і оборони, відсічі і стримування збройної агресії Російської Федерації в Донецькій та Луганській областях, забезпеченні їх здійснення, 2014* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/413-2014-%D0%BF#Text>> (2021, March, 01).

⁴ *Закон про статус ветеранів війни, гарантії їх соціального захисту, 1993* (Верховна Рада України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/3551-12#Text>> (2021, March, 01).

⁵ Там само.

⁶ Там само.

⁷ *Розпорядження про затвердження переліку населених пунктів, на території яких здійснювалася антитерористична операція, та визнання такими, що втратили чинність, деяких розпоряджень Кабінету Міністрів України, 2015* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/1275-2015-%D1%80#n7>> (2021, March, 01).

⁸ *Розпорядження про внесення змін у додаток до розпорядження Кабінету Міністрів України від 2 грудня 2015 р. № 1275, 2019* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/28-2019-%D1%80#Text>> (2021, March, 01).

The Cabinet of Ministers of Ukraine approved the State Target Program for physical, medical, psychological rehabilitation and social and professional rehabilitation of participants in the Anti-Terrorist Operation and persons participating in national security and defense measures, repulse and containment of armed aggression of the Russian Federation in Donetsk and Luhansk regions, for the period up to 2023 (hereinafter – the State Target Program until 2023)¹ by Resolution from December 5, 2018 № 1021. According to the State Target Program until 2023, its executors are the Ministry of Veterans Affairs of Ukraine, Ministry of Healthcare of Ukraine, Ministry of Defense of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Culture, Youth and Sports, National Guard, Administration of the State Service of Special Communications and Information Protection of Ukraine, Security Service of Ukraine (by consent), State Security Department (by consent), Foreign Intelligence Service (by consent), local executive bodies, local self-government bodies (by consent), citizens' associations (by consent), international organizations (by consent).

The Law² also stipulates that the Unified State Register of War Veterans must be created for keeping records of war veterans, their family members and other persons covered by its validity. The procedure for creating, maintaining, accessing information to the Register and its use, the procedure for obtaining information from other registers and information databases about individuals for entering information into the abovementioned Register must be determined by the Cabinet of Ministers of Ukraine.

Besides, the Cabinet of Ministers of Ukraine also determines the list of privileges for the veterans of war (subpara. 3, 15 para.1 Art. 12; para. 5 Art. 12; para. 8-9 Art. 12)³, persons with disabilities as a result of war (para. 3 part 3 Art. 13; part 8 Art. 13; para. 9 part 2 Art. 13, subpara 19, 22 Art. 13; part 2 para. 22 Art. 27; part 5 para. 28 Art. 13; part 7 para. 28 Art. 13)⁴, participants of the war (subpara. 3, 14 Art. 14; part 2 para. 18 Art. 14, para. 20 Art. 14; part 5, 6 para. 20 Art. 14)⁵ and for the persons the Law may concern (para.3 Art. 15; subpara. 16, 22 Art. 15; part 2 para. 20; p. 5 para. 22 Art. 15; p. 7 para. 22 Art. 15)⁶, and finances the costs for the burial of the veterans of war (part 3 Art. 17)⁷.

The main body in the system of central executive bodies that ensures the formation and implementation of state policy in the field of social protection of war veterans, family members of veterans and persons whom the Law of Ukraine on War Veterans may concern to, is the Ministry of Veterans Affairs of Ukraine (hereinafter – the Ministry of Veterans). According to the para. 3 of the Regulations on the Ministry of Veterans of Ukraine⁸, among its main tasks there are the formation and implementation of state policy in the field of social protection of veterans and their families; ensuring the rights and freedoms of veterans and their families; ensuring the formation and maintenance of the Unified State Register of War Veterans.

The new stage of administration of the status of PH has begun with the creation of the Ministry of Veterans. Thus, first of all, the launch of the “E-veteran” system is expected – a modern system of accounting and providing services to war veterans, which consists of a unified register and a personal “electronic office” of a veteran, and veterans will gain the chance to use all the services provided by this system in mobile application. In addition, developers suppose to establish the technical feasibility of providing information in other information systems, in particular, the formation of an electronic veteran's certificate in the mobile application “DIIA”.

An integral part of the successful implementation of the E-veteran system is the launch of the Unified State Register of War Veterans, which is also under development. Today there are two Registers, which keep records of PHs – the Unified Register of participants in the Anti-Terrorist Operation, and persons who

¹ *Постанова про затвердження Державної цільової програми з медичної, фізичної реабілітації та психосоціальної реадптації постраждалих учасників Революції Гідності, учасників антитерористичної операції та осіб, які брали участь у здійсненні заходів із забезпечення національної безпеки і оборони, відсічі і стримування збройної агресії Російської Федерації в Донецькій та Луганській областях, забезпеченні їх здійснення, на період до 2023 року, 2018* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/1021-2018-%D0%BF#Text>> (2021, March, 01).

² *Закон про статус ветеранів війни, гарантії їх соціального захисту, 1993* (Верховна Рада України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/3551-12#Text>> (2021, March, 01).

³ Там само.

⁴ Там само.

⁵ Там само.

⁶ Там само.

⁷ Там само.

⁸ *Постанова про деякі питання Міністерства у справах ветеранів, 2018* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/1175-2018-%D0%BF#Text>> (2021, March, 01).

participated in the measures to ensure national security and defense, repel and deter armed aggression in the Donetsk and Lugansk regions¹. The holder of this Register is the Ministry of Veterans as the legal successor of the State Service of Ukraine for War Veterans and Participants in the Anti-Terrorist Operation. The second register is the Unified State Register of the persons who are entitled to the privileges. In this Register all persons are included that are entitled to privileges, including PHs. The holder of this Register is the Ministry of Social Policy of Ukraine.² This complicates the registration and proper provision of the rights of direct participants in the armed conflict in eastern Ukraine. Therefore, on February 7, 2019, amendments were made to the Law on war veterans regarding the creation of the Unified State Register of War Veterans³. According to the Art. 2 of the Resolution of the Cabinet of Ministers of Ukraine № 700 from August, 14, 2019⁴, the register will contain the following information about: war veterans (PHs, persons with disabilities as a result of the war and participants of the war); persons who have special merits before the Motherland; victims of the Revolution of Dignity; family members of the above-mentioned persons and persons covered by the Law on war veterans.

The Ministry of Veterans has established an Interdepartmental commission for review of materials on recognition of participants in combat operations and payment of one-time financial assistance in the event of death or disability of volunteers and other categories of persons according to the law (hereinafter – the Interdepartmental Commission)⁵. The competence of this Commission includes: granting (deprivation) of the status of PH in case of disputes that require interdepartmental settlement; the procedure for assigning one-time financial assistance in case of death or disability of a soldier-volunteer due to injury (contusion, injury or mutilation) in the ATO/JFO; and appointment of one-time financial assistance to the participants of the ATO/JFO connected with the establishment of disability and to the family members of the dead (missing) participants of the ATO/JFO⁶. The Ministry of Veterans establishes the individual membership of this Interdepartmental Commission⁷. The form of the work of the Interdepartmental Commission is meeting, and organization of the holding of this kind of meetings is the duty of the Ministry of Veterans⁸.

In addition, the Council of Veterans, the Public Council and the Council of Families of the Dead act as advisory bodies under the Ministry of Veterans, to promote public participation in the formation and implementation of public policy through a systematic dialogue. The result of this cooperation is the development of two draft laws: the draft law №3407 “On the status of veterans and members of their families”⁹ and the draft law №3408 “On the status of the persons that contributed to the defense of the Motherland and those who have suffered from the results of the armed conflicts”¹⁰. This draft laws

¹ *Наказ про затвердження Порядку ведення Єдиного реєстру учасників антитерористичної операції та осіб, які брали участь у здійсненні заходів із забезпечення національної безпеки і оборони, відсічі і стримування збройної агресії Російської Федерації в Донецькій та Луганській областях, забезпеченні їх здійснення, 2020* (Міністерство у справах ветеранів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/z1265-20#Text>> (2021, March, 01).

² *Постанова про Єдиний державний автоматизований реєстр осіб, які мають право на пільги, 2003* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/117-2003-%D0%BF#Text>> (2021, March, 01).

³ *Закон про внесення зміни до статті 3¹ Закону України “Про статус ветеранів війни, гарантії їх соціального захисту” щодо Єдиного державного реєстру ветеранів війни”, 2019* (Верховна Рада України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/2684-19#Text>> (2021, March, 01).

⁴ *Постанова про Єдиний державний реєстр ветеранів війни, 2019* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/700-2019-%D0%BF#Text>> (2021, March, 01).

⁵ *Наказ про затвердження Положення про міжвідомчу комісію з питань розгляду матеріалів про визнання учасниками бойових дій та виплати одноразової грошової допомоги в разі загибелі (смерті) або інвалідності волонтера і деяких інших категорій осіб відповідно до Закону України “Про статус ветеранів війни, гарантії їх соціального захисту”, 2019* (Міністерство у справах ветеранів, тимчасово окупованих територій та внутрішньо переміщених осіб України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/z1244-19>> (2021, March, 01).

⁶ Там само.

⁷ Там само.

⁸ Там само.

⁹ *Проект Закону про статус ветеранів та членів сімей загиблих (померлих) захисників України та ветеранів, 2020* (Верховна Рада України). *Офіційний сайт Верховної Ради України* <https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68710> (2021, March, 01).

¹⁰ *Проект Закону про статус осіб, які сприяли захисту Батьківщини, та осіб, постраждалих внаслідок збройних конфліктів, 2020* (Верховна Рада України). *Офіційний сайт Верховної Ради України* <https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68711> (2021, March, 01).

have the purpose to renew totally the legislation about war veterans. Both these draft laws are submitted to the parliament of Ukraine, and now they are on the stage of their discussion.

One more executive body, which is actively involved in “organization of payment... of one-time financial assistance, social and professional adaptation of servicemen that are resigning from military service or were already resigned, in particular organizes the payment of one-time financial assistance to war veterans and those the law on the war veterans may concern till May, 5th” is the *Ministry of Social Policy of Ukraine* (para. 1, para. 41 of the Regulations on the Ministry of Social Policy of Ukraine)¹.

The Public Council acts under the Ministry of Social Policy with the involvement of ordinary citizens to state management. The Public Council includes the Committee for the Development of Social Services and Protection of Children’s Rights, which takes care of the rights of children of deceased members of the ATO/JFO. The State Social Assistance Committee provides legal support on social protection issues to ATO/JFO participants.

In addition, the Ministry of Social Policy of Ukraine directs, coordinates and controls the activities of the State Service of Ukraine for Labor and its territorial departments, the State Employment Service, the Pension Fund of Ukraine, the Social Insurance Fund, and the Social Protection Fund for the disabled. All these bodies are included in the PH’s social protection mechanism.

Other executive bodies are also involved in the ensuring of the status of PH on the East of Ukraine. Thus, the powers of the *Ministry of Healthcare of Ukraine* includes the provision of information about the group and the cause of disability. This provision of information is conducted through the system of medical and social expert commissions, and this information is the basis to gain the status of the person with disabilities as the result of the war on the East of Ukraine^{2,3}. The healthcare institutions assist PHs urgently⁴. In addition, currently in Ukraine there are Centers for Social and Psychological Rehabilitation under the double subordination of the Ministry of Veterans and the Ministry of Healthcare of Ukraine, which provide qualified psychological and social rehabilitation and informational counseling to war veterans in the East of Ukraine and their families.

Ministry of Defense of Ukraine has made many developments in the sphere of psychological rehabilitation of the participants of ATO/JFO. Among these developments there are the guidelines “Psychological work with servicemen – participants of the ATO on the stage of renewal”⁵, “The note for the participants of Russian-Ukrainian war”⁶, psychological counseling note “I have returned”⁷. There are also the psychological advices to the professionals, PH and members of their families on the website of the Ministry of Defense of Ukraine, and the list of music to reduce emotional stress.

For today, the legislation does not have a clear algorithm for providing psychological assistance to soldiers who took part in hostilities. The only document concerning the rehabilitation of soldiers in the institutions of the Ministry of Healthcare of Ukraine is the Order of the Ministry of Healthcare

¹ *Постанова про затвердження Положення про Міністерство соціальної політики України, 2015* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/423-2015-%D0%BF#Text>> (2021, March, 02).

² *Постанова про питання медико-соціальної експертизи, 2009* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/1317-2009-%D0%BF#Text>> (2021, March, 02).

³ *Постанова про затвердження Порядку надання статусу особи з інвалідністю внаслідок війни особам, які отримали інвалідність внаслідок поранення, контузії, каліцтва або захворювання, одержаних під час безпосередньої участі в антитерористичній операції, здійсненні заходів із забезпечення національної безпеки і оборони, відсічі і стримування збройної агресії Російської Федерації в Донецькій та Луганській областях, забезпеченні їх проведення, 2015* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/685-2015-%D0%BF#Text>> (2021, March, 02).

⁴ *Постанова про забезпечення належним медичним обслуговуванням військовослужбовців та осіб рядового і начальницького складу, які зазнали поранення, контузії чи іншого ушкодження здоров’я під час подій на сході України, 2014* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/1286-18#Text>> (2021, March, 02).

⁵ Коун, О. М., Агаєв, Н. А., Пішко, І. О., Лозінська, Н. С., Остапчук, В. В. (2017). *Психологічна робота з військовослужбовцями – учасниками АТО на етапі відновлення* <<https://core.ac.uk/download/pdf/84274034.pdf>> (2021, March, 02).

⁶ *Пам’ятка учасникам російсько-української війни, 2019* (Міністерство оборони України). *Офіційний сайт Міністерства оборони України* <<https://www.mil.gov.ua/content/other/Пам'ятка.pdf>> (2021, March, 02).

⁷ *Я повернувся (психологічний порадище), 2016* (Міністерство оборони України). *Офіційний сайт Міністерства оборони України* <<https://www.mil.gov.ua/content/other/Пам'ятка.pdf>> (2021, March, 02).

of Ukraine from February 23, 2016 “On approval and implementation of medical and technological documents for standardization of medical care for post-traumatic stress disorder”¹. This Order determines the unified concepts and mechanisms for prevention, diagnosis, treatment and rehabilitation of PHs. Besides, the rehabilitation process is regulated on the level of special normative acts, as PHs relate to different categories of military and law enforcement formations. These normative acts, are, in particular, the Order of the Ministry of Defense of Ukraine “On the approval of the Instruction on the organization of sanatorium treatment, medical and medical-psychological rehabilitation in the Armed Forces of Ukraine” from November, 04, 2016 № 591²; the Order of the Ministry of Defense of Ukraine “On the approval of the Regulations about psychological rehabilitation of the soldiers of the Armed Forces of Ukraine and the State Special Transport Service, that were taking part in Anti-Terrorist Operation, were taking measures to ensure national security and defense, repulse and deter of armed aggression of the Russian Federation in Donetsk and Luhansk regions or were performing official (combat) tasks in extreme conditions” from December, 09, 2015 № 702³; the order of the Central Office of the Security Service of Ukraine “On the approval of the Instruction about the organization of medical rehabilitation in the Security Service of Ukraine” from November, 15, 2012⁴ etc.. Therefore, in October 2020, the Ministry of Veterans, the Ministry of Defense of Ukraine and the Ministry of Healthcare of Ukraine signed a Memorandum about cooperation in order to create a single system of psychological rehabilitation of veterans.

The Ministry of Education and Science of Ukraine ensures the formation and implementation of state policy in the field of state supervision (control) over the activities of educational institutions in terms of providing educational benefits for PHs and their families. These activities include explanatory work among educational institutions, such as “On communication with preschool children from the families of participants in JFO/ATO, internally displaced persons and the organization of interaction with their parents” from December 12, 2019 № 1 / 9-766⁵ etc.

The Ministry of Youth and Sports of Ukraine provides for numerous sports events in which PHs and members of their families take part. Veterans of the war in Ukraine also take part in international veteran competitions such as the Marine Corps Marathon (Washington), the Beirut Marathon (Lebanon) and the Forced March (Scotland), Veterans’ Ten Marathon, held jointly with US and Polish veterans, etc.

The Ministry of Finance of Ukraine approves passports of budget programs, including those related to the activities of public administration entities and their programs for PHs and members of their families; approves all legislative initiatives to regulate the legal status of ATO/JFO participants and relevant expenditures within budget funds allocated in accordance with the Law of Ukraine on the State Budget of Ukraine for the current year.

The Ministry of Justice of Ukraine legalizes all-Ukrainian associations of war veterans, conducts state registration of normative legal acts (orders, instructions) of ministries and other central executive bodies, which have priority in regulating the status of PH (depending on the type of formation the PH belongs to). In addition, the Ministry of Justice of Ukraine has a Coordination Center for Legal Aid,

¹ *Наказ про затвердження та впровадження медико-технологічних документів зі стандартизації медичної допомоги при посттравматичному стресовому розладі, 2016* (Міністерство охорони здоров’я України). *Ліга Закон* <http://search.ligazakon.ua/l_doc2.nsf/link1/MOZ25625.html> (2021, March, 02).

² *Наказ про затвердження Інструкції про організацію санаторно-курортного лікування, медичної та медико-психологічної реабілітації у Збройних Силах України, 2016* (Міністерство оборони України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/z1538-16#Text>> (2021, March, 02).

³ *Наказ про затвердження Положення про психологічну реабілітацію військовослужбовців Збройних Сил України, та Державної спеціальної служби транспорту, які брали участь в антитерористичній операції, здійснювали заходи із забезпечення національної безпеки і оборони, відсічі і стримування збройної агресії Російської Федерації у Донецькій та Луганській областях чи виконували службові (бойові) завдання в екстремальних умовах 2015* (Міністерство оборони України). *Офіційний сайт Верховної Ради України*. <<https://zakon.rada.gov.ua/laws/show/z0237-16#Text>> (2021, March, 02).

⁴ *Наказ про затвердження Інструкції про організацію медичної реабілітації в Службі безпеки України, 2012* (Центральне Управління Служби безпеки України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/z2035-12#Text>> (2021, March, 02).

⁵ *Лист щодо комунікації з дітьми дошкільного віку з родин учасників ООС/АТО, внутрішньо переміщених осіб та організації взаємодії з їхніми батьками, 2019* (Міністерство освіти і науки України). *Офіційний сайт Міністерства освіти і науки України* <<https://mon.gov.ua/ua/npa/shodo-komunikaciyi-z-ditmi-doshkilnogo-viku-z-rodin-uchasnikiv-oosato-vnutrishno-peremishenih-osib-ta-organizaciyi-vzayemodiyi-z-yihnimi-batkami>> (2021, March, 02).

where PHs have the right to receive free secondary legal aid in accordance with paragraph 9, part 1 of the Law of Ukraine “On Free Legal Aid”¹.

The Ministry of Culture and Information Policy of Ukraine is responsible for the proper information space around the status of PH and for creating a positive image of ATO/JFO war veterans. An example is the outdoor advertising “Respect the Heroes!”; social videos about the “Kyiv-1” battalion, the National Guard of Ukraine, etc.

Ensuring the implementation of the status of PH (in general, social security issues) is carried out by local state administrations, local governments, amalgamated territorial communities both by fulfilling their direct powers in this area and by forming subsidiary bodies. Therefore, on the local level the regional programs for the support of the participants of ATO/JFO and their family members are approved. These programs provide for the measures of medical care, rehabilitation and psychological support, payment of material assistance, allocation of land, housing construction, and programs of reimbursement of expenses from preferential transportation of ATO/JFO participants and members of the families of the dead soldiers. For example, The Complex Program of Social Protection of the Population of Poltava Region for 2021 – 2025², among other things, has its aim to provide a comprehensive approach to providing social support to PH, those who are the participants of the ATO/JFO, their family members and family members of the dead (deceased) ATO/JFO participants. Also there is an example of Cherkasy Regional Council and its decision “On the regional program of the securement of the participants of ATO/JFO and soldiers-volunteers, who were taking part in the protection of territorial integrity and state sovereignty on the East of Ukraine, and providing housing for them in 2021 – 2025”³ № 38-10/VII from September, 11, 2020. The aim of this decision is to solve the problems of housing, increasing social protection and adaptation of ATO/JFO participants and soldiers-volunteers and members of their families, residents of Cherkasy region.

An example of compliance with the requirements of part 4 of Art. 2 of the Law also includes the activities of local state administrations and local governments to issue certificates of soldier-volunteer (including Kyiv, Volyn, Lviv, Dnipropetrovsk and other regions). Here regional administrations provided them with a package of municipal benefits and guarantees as PHs at the expense of the local budget before the adoption of relevant amendments to the Law, which provided soldiers-volunteers the PH status.

Besides, according to the Art. 39 of the Law of Ukraine “On the local state administrations”⁴ and subpara. 5 para. 4 of the Decree of the President from March, 18, 2015 №150 “On additional measures of social protection of the participants of Anti-Terrorist Operation”⁵ the centers to help the participants of Anti-Terrorist Operation are created. Their aim is to promote the consolidation and coordination of the efforts of participants in the hostilities in the ATO/JFO zone, the families of the dead and their associations in the wider, more effective use of existing opportunities to ensure the protection of their economic and social rights, as well as to address pressing issues related to treatment, medical, psychological rehabilitation and social adaptation.

To comply with the Decree of the President of Ukraine from October, 05, 2015 № 570/2015 “On the amendments to the Decree of the President of Ukraine from March, 18, 2015 №150/2015”⁶ and the Art. 25 of the Law of Ukraine “On the Local Self-Governance”⁷ these kind of centers to help the participants

¹ Закон про безоплатну правову допомогу, 2011 (Верховна Рада України). Офіційний сайт Верховної Ради України <<https://zakon.rada.gov.ua/laws/show/3460-17#Text>> (2021, March, 02).

² Комплексна програму соціального захисту населення Полтавської області на 2021-2025 роки, 2021 (Полтавська обласна рада). Офіційний сайт Полтавської обласної ради <http://plsz.gov.ua/pub_doc/rish38.pdf> (2021, March, 03).

³ Рішення про обласну програму забезпечення учасників антитерористичної операції/операції об'єднаних сил і бійців-добровольців, які брали участь у захисті територіальної цілісності та державного суверенітету на Сході України, та членів їх сімей житлом у 2021-2025 роках, 2020 (Черкаська обласна рада). Офіційний сайт Черкаської обласної ради <<https://www.oblrada.gov.ua/oblasn-programi>> (2021, March, 03).

⁴ Закон про місцеві державні адміністрації, 1999 (Верховна Рада України). Офіційний сайт Верховної Ради України <<https://zakon.rada.gov.ua/laws/show/586-14/print>> (2021, March, 03).

⁵ Указ про додаткові заходи щодо соціального захисту учасників антитерористичної операції, 2015 (Президент України). Офіційний сайт Верховної Ради України <<https://zakon.rada.gov.ua/laws/show/150/2015#Text>> (2021, March, 03).

⁶ Указ про внесення зміни до Указу Президента України від 18 березня 2015 року № 150, 2015 (Президент України). Офіційний сайт Верховної Ради України <<https://zakon.rada.gov.ua/laws/show/570/2015#Text>> (2021, March, 03).

⁷ Закон про місцеве самоврядування в Україні 1997 (Верховна Рада України). Офіційний сайт Верховної Ради України. <<https://zakon.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80>> (2021, March, 03).

of ATO/JFO are also opening as the subsidiary authorities under village, settlement and city councils (f.e. Pereiaslav-Khmelnytskyi town center of the assistance to the participants of ATO¹, The center of assistance to the participants of ATO of Kolomyia town council,² The center of assistance to the participants of ATO, members of their families and members of the families of dead soldiers, who were taking part in the ATO of Irpin town council,³ etc).

The amalgamated territorial communities (hereinafter – communities) also actively contribute to the implementation of the status of PH. For example, Chaplynka community of Kherson region provided social housing for participants in the war in eastern Ukraine. Reshetylivka community of Poltava region provided assistance to ATO/JFO participants to purchase housing on co-financing terms.

The President of Ukraine, as a guarantor of human rights and freedoms, also takes care of ensuring the implementation of the legal status of PH. Thus, the Decree of the President of Ukraine from November 22, 2018 №386/2018 introduced the position of the Commissioner of the President of Ukraine for the rehabilitation of the participants in hostilities⁴. His responsibilities include monitoring, analyses and facilitating international cooperation on the rehabilitation and socialization of PHs. In particular, training of ATO/JFO veterans with injuries, mutilations, contusions and other diseases as the result of the war are held periodically at the national sports complex “Olimpiyskyi”, with professional coaches and medical workers, with the participation of the Office of the Commissioner of the President of Ukraine for the rehabilitation of the participants in hostilities, the Ministry of Youth and Sports, the Athletics Federation and the National Council for Sports Rehabilitation of Defenders of Ukraine. In our opinion, with the creation of the Ministry of Veterans the problem has aroused of the duplication of its functions with the functions of the Commissioner of the President of Ukraine for the rehabilitation of the participants in hostilities, especially in the sphere of social protection of the veterans of war, the rehabilitation of PHs (para.1 of the Art. 3 of the Regulations of the Ministry of Veterans Affairs⁵).

In addition, from 2014 to 2019, in order to promote civil harmony, de-escalate tensions, ensure the safety of citizens and prevent encroachments on the health and life of civilians in Donetsk and Luhansk regions, to stop encroachments on the sovereignty and territorial integrity of Ukraine and to implement the peace plan of the President of Ukraine on the settlement of the situation in eastern Ukraine, the Decree of the President of Ukraine of June 17, 2014 № 533 provides for the position of the Commissioner of the President of Ukraine for the peaceful settlement of the situation in Donetsk and Luhansk regions functioning on a voluntary basis⁶.

With the Decree of the President of Ukraine from June, 2, 2020 № 209/2020 the Advisory Council for War Veterans, Families of Deceased Defenders of Ukraine⁷ was created as the advisory body under the President of Ukraine. One of its tasks is to develop a national work plan to overcome the problems of war veterans and families of dead soldiers.

¹ Центр з надання допомоги учасникам АТО 2015. Офіційний сайт Переяславської міської ради та виконавчого комітету. <http://phm.gov.ua/?page_id=594> (2021, March, 03).

² Розпорядження про деякі питання роботи Центру допомоги учасникам антитерористичної операції, 2016 (Міський голова міста Коломия Івано-Франківської області). Офіційний сайт Коломийської міської ради <<http://ww2.if.gov.ua/kolomiyskiy/ua/catalog/item/5597.htm?141247888=74f89717eac2ecac49a13cfa290a8c3>> (2021, March, 03).

³ Розпорядження про утворення Центру допомоги учасникам антитерористичної операції, членам їх сімей та членам сімей загиблих військовослужбовців, які брали участь у проведенні антитерористичної операції, 2015 (Перший заступник міського голови, в.о. міського голови Ірпінської міської ради). Офіційний сайт Ірпінської міської ради <<https://imr.gov.ua/files/ato/rozporjadzhennja-pro-centr-dopomogi-uchasnikam-ato.pdf>> (2021, March, 03).

⁴ Указ про Уповноваженого Президента України з питань реабілітації учасників бойових дій, 2018 (Президент України). Офіційний сайт Президента України <<https://www.president.gov.ua/documents/3862018-25554>> (2021, March, 03).

⁵ Постанова про деякі питання Міністерства у справах ветеранів, 2018 (Кабінет Міністрів України). Офіційний сайт Верховної Ради України <<https://zakon.rada.gov.ua/laws/show/1175-2018-%D0%BF#Text>> (2021, March, 03).

⁶ Указ про Уповноваженого Президента України з мирного врегулювання ситуації в Донецькій та Луганській областях, 2014 (Президент України). Офіційний сайт Президента України <<https://www.president.gov.ua/documents/5332014-17376>> (2021, March, 03).

⁷ Указ про Консультативну раду у справах ветеранів війни, сімей загиблих (померлих) захисників України, 2020 (Президент України). Офіційний сайт Президента України <<https://www.president.gov.ua/documents/2092020-34041>> (2021, March, 03).

Among the tasks defined in the Regulations on the Advisory Council for War Veterans, Families of Deceased Defenders of Ukraine¹, it is necessary to single out its participation in resolving issues arising during the search and return of prisoners of war, illegally detained citizens of Ukraine, search for missing, burials and reburials of the remains of servicemen who died as a result of direct participation in hostilities during the defense of the Motherland (para. 5). Indeed, the issue of prisoners of war and prisoners from the civilian population remained completely outside the legal field of the domestic legislator. However, in our opinion, such issues should be referred to the competence of the Ministry of Veterans as a body that formulates and implements state policy on social protection of all participants in the armed conflict. Therefore, we propose to supplement para. 3 of the Regulation on the Ministry of Veterans with subpara. 4 as follows:

“ensuring the search and return of prisoners of war, prisoners from the civilian population, illegally detained citizens of Ukraine in the Russian Federation, search for missing persons who were directly in the areas of anti-terrorist operation during its implementation, and participated in any form in the implementation of measures to ensure national security and defense, repulse and deter the armed aggression of the Russian Federation in Donetsk and Luhansk regions, being directly in the areas and during these activities”.

We also include commissions for granting the status of PH as the parts of legitimate military and law enforcement agencies of Ukraine, to the subjects of public administration, for which public activity is not the main one. They also do not belong to any branch of government, but ensure the implementation of the rights and freedoms of the PHs. The military-civil administrations in Donetsk and Luhansk regions also belong to this type of the subjects of public administration. In accordance with Part 2 of Art. 1 of the Law of Ukraine “On Military-Civil Administrations”² they are temporary state bodies in villages, towns, cities, districts and regions, operating as part of the Anti-Terrorist Center of the Security Service of Ukraine or as part of the Joint Operational Headquarters of the Armed Forces of Ukraine. These temporary bodies are designed to provide the operation of the Constitution and laws of Ukraine, to ensure security and normalization of life, law and order, participation in counteracting acts of armed aggression, acts of sabotage and terrorist acts, prevention of humanitarian catastrophe in the area of repulse of armed aggression of the Russian Federation, including anti-terrorist operation.

The Law of Ukraine “On Military-Civil Administrations”³ states that military-civil administrations are created to fulfill the powers of district, regional councils, and state administrations, which, within their competence, ensure the implementation of the status of PH. However, such features of military-civil administrations as temporality, specialty of appointment and activity as a part of the Anti-terrorist center at the Security Service of Ukraine or as a part of the Joint Operational Headquarters of the Armed Forces of Ukraine – indicate the priority of military authority (national defense) over the civilian support (observance of the rights and freedoms of ATO/JFO participants).

It is also impossible to ignore public and volunteer organizations, unions, associations that assist public administration bodies in ensuring the status of PH, especially with regard to social programs. Thus, the public organization “All-Ukrainian Association of ATO participants “Ukrainians together!” launched an all-Ukrainian program of social and legal protection of PHs in Donbass and members of their families by issuing a social card. In 2014, the public organization “The Legal Hundred” was the first to introduce a free Legal Aid Hotline for participants in the armed conflict in eastern Ukraine. They also took an active part in the establishment of the Ministry of Veterans of Ukraine, and in the reform of legislation on war veterans. In addition, it currently publishes Bulletins containing an analysis of bills to be considered by deputies during the session week in the Verkhovna Rada, and monitors the activities of the relevant profile committees.

The vector of the activity of public and volunteer organizations is different, such as sports rehabilitation (public union “National Council of Sports Rehabilitation of Defenders of Ukraine”, Public Union “Football Federation of ATO Participants”); legal consultations “All-Ukrainian Public Organization “Association of Volunteers”, etc.). In addition, organizations can be divided into regional ones (public organization “Yaremche Regional Union of Disabled and ATO Veterans and Combatants”, public organization “Organization of ATO Veterans of Kyiv and Kyiv region”, etc.); and all-Ukrainian (The Return Alive

¹ Указ про Положення про Консультативну раду у справах ветеранів війни, сімей загиблих (померлих) захисників України, 2020 (Президент України). Офіційний сайт Верховної Ради України <<https://zakon.rada.gov.ua/laws/show/273/2020#Text>> (2021, March, 03).

² Закон про військово-цивільні адміністрації, 2015 (Верховна Рада України). Офіційний сайт Верховної Ради України <<https://zakon.rada.gov.ua/laws/show/141-19#Text>> (2021, March, 03).

³ Там само.

Foundation, Public Union “All-Ukrainian Public Association of Families of the Dead and Missing, Participants in the Anti-Terrorist Operation, War Veterans and Activists of the Volunteer Movement “WINGS OF 8 HUNDRED”, etc.).

Budget funds are provided for their activities. The evidence of the abovementioned fact is, in particular, the Resolution of the Cabinet of Ministers of Ukraine “Some issues of financial support to public associations of veterans” from February 14, 2018 № 156¹. It approved the Procedure for using funds provided in the state budget for financial support of public associations of veterans for the implementation of national programs (projects, events), events to visit military burials and military monuments and to celebrate holidays, anniversaries and historical dates. Also among the acts that regulate the issues of allocating the budget funds to NGOs is the Resolution of the Cabinet of Ministers of Ukraine “On approval of the Procedure for determining the program (projects, measures) developed by civil society institutions, for the implementation of which financial support is provided” from October 12, 2011 № 1049², etc.

Conclusions. Thus, public administration authorities to ensure the status of PHs can be divided into two groups: those for which public administration is the main activity (executive authorities, local governments, military-civil administrations, the President of Ukraine), and those for which public administration activity is not the main one, which do not belong to any of the branches of government, but ensure the implementation of the legal status of PHs within their competence (commissions for granting the status of PH in the legal military and law enforcement agencies of Ukraine). In addition, we can also determine the public and volunteer organizations, which assist public administration bodies in ensuring the implementation of the legal status of ATO/JFO participants.

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2. *Zakon pro status veteraniv viiny, harantii yikh sotsialnoho zakhystu, 1993* (Verkhovna Rada Ukrainy). [Law on the status of war veterans and the guarantees of their social protection 1993 (Verkhovna Rada of Ukraine)]. *Ofitsiynyi sait Verkhovnoi Rady Ukrainy* [Official webportal of the Verkhovna Rada of Ukraine]. <<https://zakon.rada.gov.ua/laws/show/3551-12#Text>>. (2021, March, 01). [in Ukrainian].
3. *Postanova pro zatverdzhennia Poriadku nadannia ta pozbavlennia statusu uchastnyka boiovykh dii osib, yaki zakhyshchaly nezalezhnist, suverenitet ta terytorialnu tsilisnist Ukrainy i braly bezposeredniu uchast v antyterrorystychnii operatsii, zabezpechenni yii provedennia chy u zdiisnenni zakhodiv iz zabezpechennia natsionalnoi bezpeky i oborony, vidsichi i strymuvannia zbroinoi ahresii Rosiiskoi Federatsii v Donetskkii ta Luhanskii oblastiakh, zabezpechenni yikh zdiisnennia, 2014* (Kabinet Ministriv Ukrainy). [Resolution on Approval of the procedure for granting and depriving the status of a participant in military hostilities for people who defended the independence, sovereignty and territorial integrity of Ukraine and participated directly in the anti-terrorist operation, ensuring its conduct or implementing measures to ensure national security and defense, federations in Donetsk and Luhansk regions, ensuring its implementation 2014 (Cabinet of Ministers of Ukraine)]. *Ofitsiynyi sait Verkhovnoi Rady Ukrainy* [Official webportal of the Verkhovna Rada of Ukraine] <<https://zakon.rada.gov.ua/laws/show/413-2014-%D0%BF#Text>> (2021, March, 01). [in Ukrainian].
4. *Rozporiadzhennia pro zatverdzhennia pereliku naselenykh punktiv, na terytorii yakykh zdiisniuvalasia antyterrorystychna operatsiia, ta vyznannia takymy, shcho vtratyly chynnist, deiakykh rozporiadzhen Kabinetu Ministriv Ukrainy, 2015* (Kabinet Ministriv Ukrainy). [Order on Approval of the list of settlements on the territory of which the anti-terrorist operation was carried out, and recognition as invalid of some orders of the Cabinet of Ministers of Ukraine 2015 (Cabinet of Ministers of Ukraine)]. *Ofitsiynyi sait Verkhovnoi Rady Ukrainy* [Official webportal of Verkhovna Rada of Ukraine] <<https://zakon.rada.gov.ua/laws/show/1275-2015-%D1%80#n7>> (2021, March, 01). [in Ukrainian].
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¹ *Postanova pro деякі питання надання фінансової підтримки громадським об'єднанням ветеранів, 2018* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України* <<https://zakon.rada.gov.ua/laws/show/156-2018-%D0%BF#Text>> (2021, March, 03).

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