



## PARLIAMENT IN TIMES OF WAR

### Parliamentary Oversight of Ukraine's Security and Defence Sector: Context and Development Prospects

During the years of its independence, and especially in the context of ongoing military operations, Ukraine has been building democracy, taking the best practices of the EU and NATO member states as a model. In countries where the army and the so-called security forces play a significant role in political life<sup>1</sup>, parliamentary oversight in the security and defence sector (hereinafter referred to as parliamentary oversight) is a component of democratic civilian control.

Parliamentary oversight in Ukraine was first enshrined in the legislation in 2003, in the Law 'On Democratic Civilian Control over the Military Organisation and Law Enforcement Agencies of the State', in addition to the Constitution<sup>2</sup>. Further, in connection with the confirmation of Ukraine's European and Euro-Atlantic integration path, the Parliament adopted the Law 'On National Security of Ukraine' in 2018<sup>3</sup>. The provisions on parliamentary oversight are also contained in special regulatory legal acts regulating the activities of a particular security and defence body (e.g., laws on the Security Service of Ukraine (SSU) and intelligence).

#### Adoption of laws that define and regulate the activities of security and defence bodies and their powers

The Parliament shapes Ukraine's security and defence policy and establishes the tools and limits of its own control, as well as that of other subjects of democratic civilian control. For example, the adoption of the Law 'On National Security of Ukraine' has helped improve the governance mechanisms in the field of national security and defence, standardise the structure and composition of the relevant bodies, their management, coordination and interaction systems, thus bringing them closer to implementing successful NATO practices and standards.

At the same time, there are cases when, due to internal discussions and opposing views of MPs, interested public authorities, experts, and other stakeholders, the

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<sup>1</sup> *Democratic civilian control* is a set of legal, organisational, informational, personnel and other measures taken in accordance with the Constitution and laws of Ukraine to ensure the rule of law, legitimacy, accountability, and transparency of the security and defence bodies, as well as other bodies, the activities of which are related to the restriction of human rights and freedoms in cases determined by law, to facilitate their effective operation and performance of their functions, and to strengthen the national security of Ukraine (Law 'On National Security of Ukraine', Art. 1 (part 1, para. 5)).

<sup>2</sup> URL: <https://zakon.rada.gov.ua/laws/show/975-15/ed20030619#top>

<sup>3</sup> URL: <https://zakon.rada.gov.ua/laws/show/2469-19/ed20230331#Text>

Parliament has not adopted decisions important for the state security and defence policy for several years. For Draft Law No. 4210<sup>4</sup>, submitted for consideration in 2020 and approved in principle in early 2022, proposes comprehensive amendments to the legislation governing security and defence, in particular by introducing new terminology, improving military leadership, defence planning procedures, taking into account the experience of NATO and EU member states, etc.

Draft Law No. 3196-d<sup>5</sup>, which aims to reform the SSU, in particular by optimising its organisational and personnel structure and transferring certain functions to other bodies, and by strengthening counter-intelligence and anti-terrorism activities, was adopted in principle in 2021 and had since been undergoing further revision by the Verkhovna Rada committees.

### **Approval of budget allocations and decision-making on the report on their utilization**

The Parliament approves the law on the State Budget for the respective year. The law also provides for budgetary expenditures in the security and defence sector (funding of relevant bodies, equipping the army, etc.). Parliamentary oversight over the targeted use of such funds is exercised, inter alia, through Ukraine's supreme audit body, the Accounting Chamber, which is empowered to carry out state external financial control (audit). For example, in May 2022, the Accounting Chamber approved a report following the audit of the efficient use of budget funds allocated to the Ministry of Defence for the construction (purchase) of housing for military personnel<sup>6</sup>, and in October 2023 — of the purchase of material property and catering for the Armed Forces<sup>7</sup>. In these reports, the auditors pointed out a number of shortcomings in the use of funds by the Ministry for these purposes and provided recommendations for their elimination.

The Accounting Chamber reports often trigger criminal proceedings<sup>8</sup> and can also encourage the MPs to work on amendments of existing legislation. In practice, they could also become a means of political pressure on individual institutions or their leaders. The expert community and international stakeholders have pointed to the low efficiency of the Accounting Chamber, notably the quality of audit work that can benefit from improvements, lack of unified and verified methodologies and processes complying with INTOSAI standards, and focus on inspecting institutions rather than auditing<sup>9</sup>. The process of appointment and dismissal of 13 members of the Accounting Chamber and the Head thereof out of their number by the Verkhovna Rada is also subject to constant public criticism. Therefore, the most discussed issue among the key players is the reform of the Accounting Chamber to make its activities more efficient and to ensure real interaction with the Parliament. To this end, the Verkhovna Rada committees are already working on a relevant draft law<sup>10</sup>.

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<sup>4</sup> URL: <https://itd.rada.gov.ua/billInfo/Bills/Card/4304>

<sup>5</sup> URL: <https://itd.rada.gov.ua/billInfo/Bills/Card/4441>

<sup>6</sup> URL: [https://rp.gov.ua/upload-files/Activity/Collegium/2022/11-2\\_2022/Zvit\\_11-2\\_2022.pdf](https://rp.gov.ua/upload-files/Activity/Collegium/2022/11-2_2022/Zvit_11-2_2022.pdf)

<sup>7</sup> URL: [https://rp.gov.ua/upload-files/Activity/Collegium/2023/23-2\\_2023/Zvit\\_23-2\\_2023.pdf](https://rp.gov.ua/upload-files/Activity/Collegium/2023/23-2_2023/Zvit_23-2_2023.pdf)

<sup>8</sup> URL: <https://rp.gov.ua/FinControl/FinReactions/?id=1743>; <https://rp.gov.ua/FinControl/FinReactions/?id=1393>

<sup>9</sup> URL: <https://centreua.org/monitoring-rishen/rahunkova-palata-yak-vasalu-verhovnoyi-rady-staty-samodostatnoyu-institut-siyeyu/>

<sup>10</sup> URL: <https://itd.rada.gov.ua/billInfo/Bills/Card/42771>

## Committees' activities to ensure parliamentary oversight

The main parliamentary committee responsible for oversight in the security and defence sector is the Committee on National Security, Defence and Intelligence (hereinafter the Committee), which has subcommittees focusing on specific institutions or areas of activity<sup>11</sup>. The committees dealing with anti-corruption, social and foreign policy, as well as the budget issues are also involved in such parliamentary oversight in their respective areas.

The Committee's activities include, inter alia, working on draft laws aimed at improving state policies in the relevant area; approving procurement plans for defence goods, works and services; hearing candidates for the positions of the Minister of Defence, the Head of the Security Service of Ukraine and the Minister of Internal Affairs before their appointment; considering reports, statements and information from state bodies and officials at its meetings or during hearings, etc. For example, several weeks before the full-scale invasion, the Committee heard information from intelligence agencies (the Foreign Intelligence Service, the SSU, etc.) on the current security situation in Ukraine and the status of SSU reform<sup>12</sup>. The Committee continues to receive such information behind the closed doors during its meetings on April 3rd, 2024<sup>13</sup>.

In 2020, the Parliament adopted the Law 'On Intelligence', providing for the establishment of a *committee to ensure the Verkhovna Rada's control over the activities of state special purpose bodies with law enforcement functions, special purpose law enforcement agencies and intelligence agencies*. In this regard, it is still debatable whether the National Security Committee or a separate committee should perform these functions. At the same time, the requirements of the law regarding the personal composition of such a committee (an odd number of persons), the specific features of its activities, the procedure for its members' access to state secrets, etc. must be met under any circumstances.

## Functioning of temporary special and investigative commissions of the Verkhovna Rada

Within the framework of the parliamentary oversight, the Verkhovna Rada may establish temporary special commissions<sup>14</sup> and temporary investigative commissions<sup>15</sup>. The analysis of their work shows that the largest number of temporary special commissions (9) over the entire period of the Parliament's activity was established on national security issues<sup>16</sup>.

Between 2019-2024, various temporary investigative commissions have been operating to conduct investigations into national security and defence issues (e.g., a temporary investigative commission to investigate possible violations of the law in the Ministry of

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<sup>11</sup> URL: [https://komnbor.rada.gov.ua/news/Pro\\_komitet/72932.html](https://komnbor.rada.gov.ua/news/Pro_komitet/72932.html)

<sup>12</sup> URL: [https://www.rada.gov.ua/news/news\\_kom/219062.html](https://www.rada.gov.ua/news/news_kom/219062.html)

<sup>13</sup> E.g., the meeting of the Committee on National Security, Defence and Intelligence on 03.04.2024. URL: [https://komnbor.rada.gov.ua/news/main\\_news/73904.html](https://komnbor.rada.gov.ua/news/main_news/73904.html)

<sup>14</sup> A collegial temporary body of the Verkhovna Rada established from among the MPs to prepare and preliminary consider the issues, as well as to prepare and finalise draft laws and other regulations of the Verkhovna Rada in the capacity of the main committee (with some exceptions), unless the subject of legal regulation of such draft laws fall within the competence of other committees.

<sup>15</sup> A collegial temporary body of the Verkhovna Rada established from among MPs, whose task is to exercise parliamentary oversight by investigating the issues of public interest.

<sup>16</sup> URL: <https://parlament.org.ua/analytics/tymchasovi-speczialni-komisiyi-rishennya-dlya-vsih-problem-chy-imitacziya-bur-hlyvovi-diyalnosti/>

Defence, the Armed Forces, other military formations, and special purpose law enforcement agencies whose positions are staffed by military personnel<sup>17</sup>). In some cases, the investigations have already been completed, and the relevant reports of the commissions have been **taken into account** by the Parliament.

The activities of the temporary special and investigative commissions are accompanied by certain challenges: inadequate material, resource, and personnel support; unwillingness of the authorities, including law enforcement agencies, to cooperate; frequent cases of absence of reports on the results of the TSC's activities, contrary to the requirements of the law. At the same time, in the context of the IX convocation, there has been a significant improvement in both the number of commissions' reports registered with the Parliament and the quality of such documents. The situation with the transparency of the commissions' activities has also improved in recent years.

### **Parliamentary oversight over the observance of human and civil rights and freedoms**

Unlike in foreign states where there is a separate position of a military ombudsman, in Ukraine the Parliament Commissioner for Human Rights, **through his representative**, is responsible for parliamentary oversight of the observance of the rights and freedoms of military personnel and other employees in the security and defence sector, as well as their family members. Every year, the Commissioner submits a special report to the Parliament on the situation with the observance and protection of human and civil rights and freedoms in Ukraine<sup>18</sup>, including in the above-mentioned area, emphasising the problems identified and providing recommendations for their solution.

On the instructions of the President, the Ministry of Defence with the involvement of the Commissioner is working on the issue of effective protection of the rights of military personnel and their families by introducing a new institution: in fact, a military ombudsman. According to the Ministry, the Central Office for the Protection of Servicemen's Rights has been established, which is directly subordinated to the Minister of Defence and will be responsible for considering appeals and complaints from servicemen/women, providing primary legal aid, conducting inspections and investigating violations of the rights of servicemen/women and their families<sup>19</sup>.

However, while the activities of the military ombudsman are not regulated, the following questions remain: how his/her powers will be aligned with those of the Commissioner's representative in the system of security and defence bodies; whether the military ombudsman will be guaranteed independence in the decision-making of a sufficient extent if he/she is subordinated to the Minister of Defence.

### **Parliament's impact on the personnel policy of the security and defence sector**

The Constitution empowers the Verkhovna Rada to approve the general structure, numerical strength, and functions of the Security Service of Ukraine, the Armed Forces, other military formations, the Ministry of Internal Affairs, as well as to appoint and dismiss officials of the security and defence sector, namely: the Minister of Defence and

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<sup>17</sup> URL: [https://w1.c1.rada.gov.ua/pls/site2/p\\_temp\\_komitis](https://w1.c1.rada.gov.ua/pls/site2/p_temp_komitis)

<sup>18</sup> URL: <https://ombudsman.gov.ua/uk/shchorichni-ta-specialni-dopovidi>

<sup>19</sup>URL: <https://www.mil.gov.ua/news/2024/04/03/minoboroni-zapochatkovue-novu-inicziativu-z-zahistu-prav-vijskovosluzhbovcziv/>

the Head of the SSU upon the proposal of the President; and the Minister of Internal Affairs upon the proposal of the Prime Minister (Article 85).

In this context, the Ministry of Defence is the focus of most attention, as the Law 'On National Security of Ukraine' requires that the leadership of the Ministry (except for the State Secretary) should be appointed from among civilians. At the same time, there is currently no specified period in the legislation after which former military personnel are effectively banned from holding the positions of Minister of Defence or his deputies, as is the case in the United States. Therefore, civilian managerial positions in the ministry sometimes continue to be held by de facto military personnel (e.g., Army General S. Poltorak, who was appointed in 2014, in order to continue leading the Ministry in 2018, i.e. after the relevant requirement appeared, submitted his resignation from military service and became a civilian).

The full-scale invasion of the Russian Federation and the dismissal of the civilian Minister of Defence O. Reznikov in 2023, again raised the issue among some top officials and experts about the expediency of returning to the previous practice of appointing full-time military personnel to this position during martial law. At the same time, the President played a significant role in the appointment of the Deputy Ministers of Defence, since, contrary to the requirements of the law, he actually allowed the appointment of military personnel to the positions of First Deputy and Deputy Minister of Defence during the martial law regime by his Decree<sup>20</sup>. Although the appointment of such officials is beyond the scope of parliamentary oversight, it is important to emphasise the importance of complying with the Law 'On National Security of Ukraine' as an act of higher legal force, as well as the expediency of separating the political component of the positions of the heads of the Ministry from the military service with its specific hierarchical structure and subordination.

### **Other parliamentary oversight tools in the security and defence sector**

In addition to the above-mentioned tools, the Parliament can also use others to exercise its oversight function. For example, previously, an important element of communication between the Parliament and government officials, where MPs could get answers to their questions, was the 'hour of questions to the Government'. However, after the full-scale invasion of Russia, this practice was suspended for a long period (until October 2023). The next 'hours of questions to the Government' took place in 2024 (1 in March, 2 in May) and did not directly address security and defence issues. To some extent, the refusal to use such a tool can be justified by the need to protect confidential information from the enemy and compensated by other mechanisms (meetings with MPs during the committees' activities, etc.) as it actually happened.

Parliamentary hearings are held to examine the issues of public interest that require legislative regulation. Only 5 out of 143 parliamentary hearings held between 2003 and 2020 related to the security and defence sector<sup>21</sup>. No parliamentary hearings have been held since the outbreak of the Covid-19 pandemic. As such, parliamentary hearings should have a positive impact on state policymaking in general, in particular as an oversight tool. However, given the low level of subsequent implementation of the recommendations received after the hearings by the public authorities, it is difficult to argue that this control tool is effective.

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<sup>20</sup> URL: <https://zakon.rada.gov.ua/laws/show/126/2017#n46>

<sup>21</sup> URL: [https://static.rada.gov.ua/zakon/new/par\\_sl/index.htm](https://static.rada.gov.ua/zakon/new/par_sl/index.htm)



According to the law, the Cabinet of Ministers, the SSU, the State Border Guard Service and the Department of the State Protection submit annual written reports on their activities<sup>22</sup> to the Parliament. Moreover, in order to clarify certain issues, in particular those related to high-profile events in society, the Parliament has the right to hear information from the security and defence sector officials. For example, to clarify situations of persecution of certain members of society in connection with their activities or dissemination of their own views on certain events (the case of persecution and aggression by the SSU against Ukrainian historians of the National Museum-Memorial of Victims of the Occupation Regimes (Prison on Łącki Street) (2010) or the case of pressure on employees of the investigative journalism project Bihus.Info (2024), etc.).

The right of MPs to submit parliamentary inquiries and appeals, which, according to the Verkhovna Rada, is being actively exercised<sup>23</sup>, can also be considered as a manifestation of parliamentary oversight.

The parliamentary oversight tools are detailed in Ukrainian legislation. However, the expert community, scholars and MPs themselves confirm that the implementation of such tools in practice is characterised by a certain formality. For instance, there are cases when security and defence sector officials ignore the requirements to provide the requested information, provide it in fragments or neglect the obligation to take certain actions. To overcome such resistance, the Verkhovna Rada is increasing the responsibility of such persons.

At the same time, in the context of a full-scale invasion, when the security and defence sector is in the spotlight, parliamentary oversight must first and foremost be effective. That is why it is important to strengthen such oversight not only through a punitive mechanism, but also by introducing new tools or revising the existing ones, in particular, considering the successful practices of EU and NATO member states.

#### About this update on Ukraine's Verkhovna Rada

Ukraine's democratically elected officials continue to perform their duties while enduring Russia's unprovoked and horrific invasion. These briefing notes provide the latest information about the legislative activities of the Verkhovna Rada.

Briefing notes are prepared by the [Parliamentary Centre](#) and the [Agency for Legislative Initiatives](#) under the Parliamentary Accountability for the Security Sector (PASS Ukraine) project, funded by the Peace and Stabilization Operations Program of Global Affairs Canada. The analysis included in this note is based on media reports and information obtained from the Verkhovna Rada and other legislative bodies.

This note is for information only and is not meant to convey opinions regarding policy decisions in the Verkhovna Rada's sole purview. The contents of this note do not necessarily reflect the views of PASS partners or Global Affairs Canada. Every attempt is made to ensure the accuracy of all information, acknowledging the fluid humanitarian and security situation, the disruption of the flow of information and organized disinformation.

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<sup>22</sup> URL: [https://www.rada.gov.ua/control\\_function#menu3](https://www.rada.gov.ua/control_function#menu3)

<sup>23</sup> URL: <https://itd.rada.gov.ua/mprequests>

