
Adequacy of Normative-Legal Framework for Engaging the Military Forces of the Republic of Serbia in Emergency Situations

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Article Information*

Review Article • UDC: 355.1:614.88(497.11)

Volume: 20, Issue: 1, pages: 140–155

Received: December 12, 2022 • Revised: January 29, 2023

Accepted: February 9, 2023

<https://doi.org/10.51738/Kpolisa2023.20.1r.140kbbv>

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We have no known conflict of interest to disclose.

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*Cite (APA):

Komazec, N., Kovačević, N., & Bjelica-Vlajić, I. (2023). Adequacy of normative-legal framework for engaging the military forces of the Republic of Serbia in emergency situations. *Kultura polisa*, 20(1), 140–155. <https://doi.org/10.51738/Kpolisa2023.20.1r.140kbbv>



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Abstract

Engagement of military forces of the Republic of Serbia is determined by the national legislation. The operationalisation of engagement of military forces of the Republic of Serbia is regulated in more detail by strategic-doctrinal documents of the National Security system and rules of use of the Serbian Armed Forces. However, engagement of military forces in peacetime (emergency situations) is specific, from the point of view of ambient conditions for use, i.e. dimensions of the operational environment in which military forces are used. Consequently, clearly defined procedures and methodologies for use of military forces are necessary, which nominally requires precise normative-legal determinants. The existence of adequate normative-legal determinants of engagement of military forces in emergency situations is a problem that is being researched in the paper. The solution to the problem, that is, the goal of the work, is achieved by applying the basic method used in the research is the method of content analysis. A special instrument-sheet for content analysis was constructed for its application. A total of 66 normative-legal documents were examined, which can be divided into four groups: laws; regulations; decrees and decisions; and assessments and instructions. The research, at the level of scientific description, led to the following results: the normative-legal framework of the Republic of Serbia enables the use of military forces in emergency situations; the existing legislation is not adequately regulated, so it is necessary to regulate the use of military forces more closely, with a focus on regulating connections and relations at different levels of coordination of entities and forces of disaster risk reduction and emergency management systems.

Keywords: military forces, emergencies, risk, disasters, legislation

Adequacy of Normative-Legal Framework for Engaging the Military Forces of the Republic of Serbia in Emergency Situations

Recent events related to the danger of the COVID-19 virus have indicated the vulnerability of modern society, interdependence (from the local to the global level) and the need for a quick and correct response (Žižović et al., 2021, p. 156). An unavoidable part of the engaged forces are military capacities. Starting from the analysis of the situation at the highest level, to the operationalisation in the field, the involvement of military forces and means is inevitable (Sinić et al., 2021, p. 69).

Observed in the context of the special state of a society, system or community, emergencies represent a set of environmental conditions that determine the use of entities and forces that make up the system of disaster risk reduction and emergency management (Komazec et al., 2017, p. 273). Also, "emergency situations" are at the same time a kind of legal institute of the state that enables the use of all available capacities to reduce, i.e. eliminate the consequences caused by elemental disasters (Effler et al., 2020, p. 513). Part of the capacity available to the state are the Serbian Armed Forces (hereinafter referred to as the military force), which according to Article 13, paragraph 3 of the Law on Disaster Risk Reduction and Emergency Management is part of the forces of the national disaster risk reduction and emergency management system (Narodna skupština Republike Srbije [Narodna skupština], 2018, Art. 13, para 3).

The engagement of military forces is in principle determined by the highest legislative documents of the Republic of Serbia, while the operationalisation of the use of military forces is determined by strategic-doctrinal documents of the national security system of the Republic of Serbia and rules of military use (Keković et al., 2011, p. 228).

Based on the preference of the Republic of Serbia, the physiognomy of the modern armed conflict and the environment in which the Serbian Army can perform its tasks, the missions and tasks of the Serbian Armed Forces are being worked out. These elements determine the organization, content of preparations, use and security of the Serbian Armed Forces. The missions and tasks of the Serbian Armed Forces were defined by the National Assembly of the Republic of Serbia in accordance with the Constitution and basic principles of international law that regulate the use of force (Ministarstvo odbrane Republike Srbije, 2020, p. 33).

Existing plans and training programs for military units do not develop special abilities and skills for engaging in protection and rescue activities, but with the existing capacities they execute tasks in this area. As a result, there is a need for clearly and precisely defined capabilities, connections and relationships at different levels of coordination of military forces and other entities and forces of disaster risk reduction and emergency management systems (Generalštab Vojske Srbije, Uprava za obuku i doktrinu (J-7) [Generalštab], 2016, p. 16).

As a result, research was carried out in the paper, the aim of which, at the level of scientific description, is an empirical analysis of normative-legal documents related to the use of military forces in emergency situations, is the answer to the research question. The realization of the stated goal was achieved by answering the research question: "Is the existing normative-legal framework, which regulates the system of protection and rescue in the Republic of Serbia adequate for the use of military forces in emergency situations?" The research question is also the subject of research in the paper.

Methodological framework

Approach to the Problem

The research method applied in the paper is the method of content analysis, and it was also inevitable to implement methods of analysis and synthesis and induction and deduction in the research process. The whole research process is intertwined with these three methods, and the basic question is the existence of an adequate legal basis for the use of military forces in emergency situations. The aim of applying the method of content analysis is to determine the dominant attitudes from the subject of research, as well as summarizing existing information about the subject of research, while avoiding the analysis of the content of normative legal documents according to the free discretion and expectations of researchers (Rietjens, 2006, pp. 8-9). The research approach applied in the paper includes three phases: (1) research planning, (2) conducting research and (3) reporting on the results of the content of normative-legal documents analysis. In the continuation of the paper, the mentioned phases of the process of systematic analysis of the literature are elaborated.

Measurements and Procedures

Planning the analysis of the content of normative-legal documents. For

the purpose of planning the analysis of the content of normative-legal documents, a research protocol has been defined, which contains the following elements: the goal of the research; a research question that will be answered by analyzing the content of normative-legal documents; criteria for selection of normative-legal documents which imply defining criteria for inclusion or exclusion of normative-legal documents from the analysis – defining the base of normative-legal documents; defining terms for content analysis of selected normative-legal documents; data extraction and synthesis of extracted data (Drobysz & Sherman, 2020, p. 385).

The aim of the research is to analyze the content of existing normative-legal documents related to the engagement of military forces in "emergency situations", in order to determine whether there is an adequate legal basis for the engagement of military forces in emergency situations within the legal scope of the Republic of Serbia.

Defining criteria for including or excluding normative-legal documents from the analysis – defining the database of normative-legal documents refers to defining the search term and determining the search source, i.e. electronic databases, in order to include only that material that is of importance for the research question. The key terms used in the search were the following: "military forces / Serbian Armed Forces", and "emergency situations". Electronic services were used for a systematic review of the literature: National Assembly of the Republic of Serbia, Government of the Republic of Serbia, Ministry of Defence, Ministry of Interior and Official Gazette of the Republic of Serbia. The search includes all normative-legal documents whose content is available on the listed services. Then, the criteria for inclusion are defined, i.e. the criteria for exclusion of documents from the pre-defined database of normative-legal documents.

Inclusion criteria: material that meets the defined search keywords in its content and the material search is limited by the time dimension from 01.01.2009 to 31.12.2020. *Exclusion criteria:* material that is not available in the full version for reading and material that is focused on emergencies, but is without defining the subjects and forces of the system of disaster risk reduction and emergency management. By applying the criteria for inclusion and exclusion of normative-legal documents, a secondary database of documents was generated. When defining these criteria, the goal is to know if there is a connection between the term "military forces / Serbian Armed Forces", and "emergency", so the terms "coordination/consistency or cooperation" and "subjects and forces of the risk reduction system from disasters and emergency management" that have also

become terms for the analysis of the content of the secondary base. Also, determinant defining the criteria was the current documents of the analyzed documents.

The terms for the analysis content of the secondary base are: "military forces / Serbian Armed Forces", "emergency situations", "coordination / interaction or cooperation" and "subjects and forces of the disaster risk reduction system and emergency management". *Data extraction* involves multiple reading of relevant legal documents and identification of information relevant to the answer to the research question. *Synthesis of extracted data* involves collecting, linking, comparing and summarizing the results of the included content from the secondary defined database of normative-legal documents.

Results

Conducting analysis of the content of normative-legal documents. The first step within the phase of conducting the analysis of the content of normative-legal documents is the search of materials according to the defined keywords within the electronic databases. The number of total documents for all available electronic databases based on the defined search keywords was 66. After the potentially relevant material was collected, its relevance is assessed, based on the application of criteria for inclusion or exclusion of material from further analysis. After applying the defined criteria for inclusion in the analysis, the number of total documents was 53, while of that number, after applying the exclusion criteria, 41 documents remained. In order to facilitate implementation of the content analysis process, a special instrument was constructed – a sheet for content analysis, which is shown in Table 1.

Consequently, a secondary database of normative-legal documents has been formed, which can be divided into four parts according to the genesis of the documents, i.e. according to the bearers of the documents that make up the database: (1) laws; (2) regulations; (3) decrees and decisions of the Government of the Republic of Serbia; and (4) assessments and instructions. The group of laws includes: the Law on Disaster Risk Reduction and Emergency Management; Law on Fire Protection, Law on Elimination of Flood Consequences in the Republic of Serbia; Law on Defence; Law on the Serbian Army; Law on Environmental Protection; Law on hail defence; Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Government of the Russian Federation on the Establishment of the Serbian-Russian Humanitarian Centre;

and the Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Government of the Slovak Republic on Cooperation and Mutual Assistance in Emergency Situations (Narodna skupština, 2023).

An extensive group of documents consists of regulations: Regulation on the organization and manner of use of specialized civil protection units; Regulation on the manner of collection and deadlines for payment of funds directed as earmarked revenue of the Budget Fund for Emergency Situations; Regulation on the manner of determining the value of construction part of the facilities and the manner of calculating the fee for shelters; Regulation on the manner of preparation and content of the accident protection plan; Regulation on the manner of keeping the Register of Companies and Legal Entities Handling Dangerous Substances; Regulation on the type and quantity of hazardous substances on the basis of which the Accident Protection Plan is made; Regulation on the professional exam for the preparation of disaster risk assessment and protection and rescue plan; Regulation on organizational and technical conditions that must be met by legal entities in order to obtain authorization for the preparation of disaster risk assessment and protection and rescue plan; Regulation on organizational and technical conditions that must be met by legal entities in order to obtain authorization for the development of an accident protection plan; Regulation on the conditions that must be met by legal entities for issuing authorizations for organizing and conducting training for taking a special professional exam for disaster risk assessment and protection and rescue plan, manner of development and content of the training plan and program; Regulation on training, curricula and norms of teaching aids and equipment for training members of civil protection; Regulation on uniforms and insignia of civil protection, insignia of functions, specialties and identity cards of civil protection members; Regulation on the manner of preparation and content of the Fire Protection Plan of the Autonomous Province, local self-government units and entities classified in the first and second category; Regulation on organizing fire protection according to the category of fire risk; Regulation on the minimum number of fire fighters and technical equipment and training of professional fire brigades; Regulation on the conditions that must be met by legal entities registered to conduct special training for persons working in fire protection; Regulation on taking the professional exam and conditions for obtaining licenses and authorizations for the development of the Main Project of fire protection and special systems and measures of fire protection; Regulation on the content of records, manner of keeping them and inspections periodicity of all

fire risk categories legal entities and Regulation on the program and manner of taking a special professional exam for fire protection inspectors. (Ministarstvo unutrašnjih poslova Republike Srbije [MUP RS], 2023)

The decrees and decisions include the following documents: Decree on the implementation of evacuation; Decree on the content and manner of drafting protection and rescue plans in emergency situations; Decree on mandatory means and equipment for personal, mutual and collective protection against natural and other disasters; Decree on the composition and manner of work of emergency headquarters; Decree on the amount and manner of obtaining the rights to one-time financial assistance; Decree on the engagement of items for the protection and rescue needs and the manner of obtaining the right to compensation for their use; Decree on the classification of facilities, activities and land into fire risk categories; Decision on the formation of the Republic Headquarters for Emergency Situations; Decision on designating entities of special importance for protection and rescue in the Republic of Serbia and Decision on establishing the Budget Fund for Emergency Situations (MUP RS, 2023).

The group of assessment documents and instructions in this field includes: Disaster risk assessment in the Republic of Serbia; and Methodology of development and content of disaster risk assessment and protection and rescue plan (MUP RS, 2023).

Further implementation of analysis of the content of the secondary database of normative and legal documents was performed through data extracting, through multiple reading of secondary database documents and identification of information in documents that provide an answer to the research question. After the data extraction process using the methods of analysis and synthesis, induction and deduction, the extracted information was synthesized and the results of the research were reached, that is, the answer to the research question.

The specificity of the listed documents, regardless of the group to which they belong, is reflected primarily in their short-term nature, i.e. the necessity of their redefining and harmonization with: practical experiences; security trends in the operating environment and international legislation.

Discussion

Reporting on the results of normative-legal documents content analysis.
The answer to the research question, i.e. the elaboration of the obtained results,

is the third phase of the content analysis. The research yielded results that unequivocally show that in the Republic of Serbia there is a normative-legal framework for the use of military forces, i.e. there is a legal basis. Specifically, the jobs and activities of military forces during engagement in protection and rescue and responsibility for commanding the military forces in an emergency situation are clearly and precisely defined.

At the same time, the research yielded results that show shortcomings in the analysed legislative solutions, two of which stand out because they represent the basic elements of drafting normative-legal documents that regulate the area of emergency situations. The first shortcoming, National Strategy for Protection and Rescue in Emergencies was developed on the basis of the Hyogo Framework for Action 2005-2015 (adopted in Kobe, Hyogo, Japan, at the 1st World Conference on Disaster Risk Reduction, held from 1st January 1 to 22nd January, 2005, as a global strategy in crisis management), and in the meantime the Sendai Framework for Disaster Risk Reduction 2015-2030 was adopted (adopted in Sendai, Miyagi, Japan, at the 3rd World Conference on Disaster Risk Reduction, held from 14th March to 18th March, 2015). This clearly implies the need to adopt National Strategy for Disaster Risk Reduction and Emergency Management, which would create the conditions for refining other legislation and mutual harmonization (Kovačević 2021, p. 40). The main difference is that the Hyogo framework places special emphasis on strengthening specific forces (state response) in society to eliminate the consequences of disasters, while the Sendai Framework focuses on strengthening the resilience of all dimensions of society in order to reduce the risks of disasters and mitigate the consequences. This approach indicates that it is necessary to develop a new strategy in the Republic of Serbia, in order to create a strategic framework for the operation of protection and rescue forces.

Second shortcoming, the National Strategy for Protection and Rescue in Emergencies and the Law on Disaster Risk Reduction and Emergency Management represent the basic elements of the drafting of other normative-legal documents that regulate the field of emergency situations, but 85% of the analyzed documents have their origin in the Law on Emergency Situations (Narodna skupština, 2009, 2011, & 2012) The Law on Emergency Situations expired in 2018. Here it is important to emphasize that articles 58-64 and 66-72 of the Law on Fire Protection (2009, 2015, & 2018), whose provisions are contained in 40% of the analyzed documents, also ceased to be valid. Consequently, 85% of the analyzed documents are based on global disaster risk reduction goals that expired

in 2015. Such a criterion indicates the importance of generating a new strategic document.

The third shortcoming, in the Introduction of the National Strategy for Protection and Rescue in Emergencies (Narodna skupština, 2011) it is stated that its basis for adoption is contained in the Law on Emergency Situations (Narodna skupština, 2009, 2011, & 2012). The above implies the need to adopt a new document of this type that would be in line with valid national legislative solutions, but also with the Sendai Framework for Disaster Risk Reduction 2015–2030. The aforementioned fact limits the development of legislation within the jurisdiction of the Serbian Armed Forces in order to create the basis for coordinating actions with other protection and rescue forces.

The fourth shortcoming is that certain parts of the National Strategy for Protection and Rescue in Emergencies are in conflict with the Law on Disaster Risk Reduction and Emergency Management. Specifically, in the Annex/Area of Emergency Situations/Organization, the Serbian Armed Forces are defined as a subject, while in Article 13 the Law on Disaster Risk Reduction and Emergency Management (Narodna skupština, 2018) The Serbian Armed Forces are defined as part of the forces of the disaster risk reduction and emergency management system. The Annex/Area of Emergency Situations/Resources generally defines the use of the Serbian Armed Forces, while Articles 26 and 76 the Law on Disaster Risk Reduction and Emergency Management clearly defined situations when the Serbian Armed Forces are used, i.e. its rights and duties. The subjects of the system are the bearers of the implementation of tasks in the planning and organizational sense, while the forces are the elements of the system that are assigned to perform the tasks. It is indisputable that the Serbian Armed Forces represent both elements, but it is necessary to regulate by a by-law, which part of the army represents the forces of the protection and rescue system, specifying the tasks and methods of action.

Consequently, it is clear why we have non-existence and/or insufficient definition of connections and relations at different levels of coordination (cooperation and collaboration) between military forces and other subjects of the protection and rescue system. Also, all the above implies the necessity of adopting the National Strategy for Disaster Risk Reduction and Emergency Management, which would create conditions for the refinement of other legal regulations and mutual harmonization.

Conclusion

The normative-legal framework for the use of military forces in emergency situations is determined by the requirements of the disaster risk reduction and emergency management system. Defining the normative-legal framework in relation to this issue is condition for the intended subjects and forces of the disaster risk reduction and emergency management system, through the Republic Emergency Headquarters, to full fill their role in the operationalisation of the National Platform for Disaster Risk Reduction, through the legislation of certain institutes of the Republic of Serbia.

The paper analyses the content of 66 normative-legal documents that regulate the area of emergency situations focused on the use of military force on protection and rescue tasks. The results obtained in the research show that in the Republic of Serbia there is a legal basis for the use of military forces in emergency situations. However, the same research results prove that the existing legislative solutions have certain shortcomings (which are presented in the Results and Discussion section).

The existing normative and legal framework is not adequate for the engagement of military forces in protection and rescue activities. Namely, at the strategic level, the normative-legal conditions for the engagement of these forces in emergency situations have been created, while at the operational and tactical level, the documents that regulate the engagement of military forces in emergency situations are not precise, clear, and methodologically and functionally aligned with real needs.

It is important to emphasize here that the parts of the Defense System documents that regulate the use of military forces in emergency situations are the Law on Defense, the Doctrine of the Serbian Armed Forces, the Doctrine of Command in the Serbian Armed Forces-temporary and the Concept of the Use of the Forces of the Serbian Armed Forces in Support of Civil Authorities in the case of natural disasters, technical-technological and other accidents were prepared on based on the provisions of the Law on Emergency Situations, which ceased to be valid in 2018.

The fact is that apart from the provisions of the National Security Strategy, the Law on Defence and the Law on Disaster Risk Reduction and Emergency Management, which are of a general nature, there are no precisely defined ways and methodologies of engaging military forces in emergency situations. Violation of what has already been defined – the activities of the

military forces in the system of disaster risk reduction and emergency management, and consequently the efficiency and effectiveness of the military forces in the implementation of the assigned tasks is affected, that is, the level of risk of the use of military forces in emergency situations increases.

According to all the above, it can be concluded that the analyzed documents (regardless of the group to which they belong) are short-term, that is, there is a necessity to redefine them and harmonize them with: experiences from practice; security trends in the operational environment and international legislation. The results of the research can serve as guidelines for drafting new or amending existing legislative solutions.

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Appendix

Table 1

Sheet for content analysis

Research question	Data sources	Content analysis units				Total units of analysis by content
		military forces	emergency situations	coordination	subjects and forces	
Is there an adequate normative-legal framework for the use of military forces in emergency situations in the Republic of Serbia?	laws	+		+		28
	regulation	+		+		66
	decrees and decisions	+		+		34
	assessments and instructions	+		+		7

Note. Made by the authors.

Adekvatnost normativno-pravnog okvira za angažovanje vojnih snaga Republike Srbije u vanrednim situacijama

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Sažetak

Angažovanje vojnih snaga Republike Srbije determinisano je nacionalnom legislativom. Operacionalizacija angažovanja vojnih snaga Republike Srbije bliže je uređena strategijsko-doktrinarnim dokumentima sistema nacionalne bezbednosti i pravilima upotrebe Vojske Srbije. Međutim, angažovanje vojnih snaga u miru (vanredne situacije) je specifično, posmatrano sa stanovišta ambijentalnih uslova za upotrebu, odnosno dimenzija operativnog okruženja u kojem se vojne snage upotrebljavaju. Sledstveno tome neophodne su jasno definisane procedure i metodologija upotrebe vojnih snaga, što nominalno iziskuje precizne normativno-pravne determinante. Postojanje adekvatnih normativno-pravnih determinanti, u postojećoj legislativi u cilju angažovanja vojnih snaga u vanrednim situacijama je problem koji se istražuje u radu. Rešenje problema, to jest cilj rada se postiže primenom osnovne metode koja se koristi u istraživanju, metode analize sadržaja, za čiju primenu je konstruisan poseban instrument-arak za analizu sadržaja. Ukupno je istraženo 66 normativno-pravnih dokumenata, koji se mogu podeliti u četiri grupe: zakoni; pravilnici; uredbe i odluke Vlade Republike Srbije; i procene i uputstva. Istraživanjem se, na nivou naučne deskripcije, došlo do sledećih rezultata: normativno-pravni okvir Republike Srbije omogućuje upotrebu vojnih snaga u vanrednim situacijama; postojeća legislativa nije adekvatno uređena pa je neophodno bliže uređenje upotrebe vojnih snaga, sa težištem na uređenju veza i odnosa na različitim nivoima koordinacije subjekata i snaga sistema smanjenja rizika od katastrofa i upravljanja vanrednim situacijama.

Ključne reči: vojne snage, vanredne situacije, rizik, katastrofe, legislativa