

Defensive lawfare and deterrence: Analysis of Latvia's approach to legal bases in the context of hybrid warfare (2014–2022)

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Abstract

Following the 'hybrid form' of Russian aggression in Ukraine that emerged in 2014, the period after February 24th, 2022 is referred to as the 'new reality'. Hence, the question that needs to be addressed is how to deter and prevent Russian aggression of this kind. The national legal framework against the aggressor is a part of the deterrence policy and can be construed as defensive lawfare. Focusing on Latvia, the aim of the paper is to analyse defensive lawfare and deterrence in the context of hybrid warfare. The following research question has been identified: What is Latvia's approach to establishing defensive lawfare in terms of hybrid warfare? For the empirical analysis, the chronological framework has been set from 2014 to 2022. To complete the empirical analysis of the present paper, both qualitative and quantitative research has been implemented comprising document analysis and semi-structured interviews, as well as content analysis, respectively. The improvement of a regulatory base and the development of deterrence, whilst using regulatory acts, is an element of deterrence and a way to act legally. The law can be used as a weapon. Lawfare, a concept with three definitions, has two forms: defensive and offensive. Latvia's legal base includes a regulation to overcome hybrid threats and to implement a broad-spectrum of defence measures. Latvia's regulatory framework is designed for defence purposes, whilst also being a way of promoting deterrence. Decision makers must be able to manoeuvre with the powers assigned to them.

Keywords:

security, defence, lawfare, hybrid warfare

Article info

Received: 13 March 2023

Revised: 16 April 2023

Accepted: 19 April 2023

Available online: 11 May 2023

Citation: Bodnieks, V. (2023) 'Defensive lawfare and deterrence: analysis of Latvia's approach to legal bases in the context of hybrid warfare (2014-2022),' Security and Defence Quarterly, 42(2). doi: [10.35467/sdq/163435](https://doi.org/10.35467/sdq/163435).

Introduction

The years 2014 and 2022 have entered history as milestones in the world's understanding of security and defence. Following the 'hybrid form' of Russian aggression in Ukraine that emerged in 2014, the period after February 24th, 2022 is referred to as the 'new reality'. Since 2014, Russia's military activities have taken two directions: the hybrid form of warfare and conventional warfare. From Latvia's perspective, in terms of regional security, Russia's game with Belarus is important, as is Finland and Sweden becoming members of NATO. Ongoing changes are based on security and defence, instability, and uncertainty. This paper therefore analyses the period between 2014 and 2022. The hybrid warfare is more nuanced and covers wider directions and ways of influencing the potential adversary other than conventional attack. Hybrid warfare has several stages, gradually transforming from a time of peace to a time of crisis and a state of war. Assuming both hybrid warfare and conventional warfare, the question is how to prevent Russia's aggression and deter it from any desire to change the borders of sovereign States. In the context of hybrid warfare, deterrence is the fifth wave of deterrence theory and practice. Contrary to Russia's recent approach, a western civilised society is based on values and international and national law. To counter the potential adversary, the field of National Security and defence law should be developed in close coordination with international law. The concept of law and lawfare is evolving to this day. There are different definitions of lawfare, but the main idea is that the law can be used as a weapon. In a modern sense, lawfare has two forms: defensive and offensive. Russia has been applying offensive lawfare and trying to erode international principles and international law since the 18th century. The western countries are not considered to be aggressor States; their legal defence framework is designed for individual or collective defence against an aggressor. The legal system of western countries is a part of the deterrence policy and can be construed as defensive lawfare. The role of law in deterrence and tactical and operational objectives has increased. It also manifests itself in hybrid warfare. Hybrid warfare against NATO member states may lead to aggression against all alliances; therefore, it is important for all states to transform their legislation and overcome potential threats. In terms of security and defence, Russia's activities against Latvia have manifested themselves in different directions: the policy of Russian compatriots, the development of an ideology concerning Latvia, the acquittal of Russian warfare in the public space, aggressive expression with an informative impact, and the dissemination of false and amended information. The activities mentioned above also include spreading messages about Russophobia, reviving Nazism, raising doubts regarding NATO, and creating a network of influence agents. Since 2014, significant changes have affected Latvia's legal framework. Moreover, the regulatory framework of Latvia is a part of the implementation of the deterrence policy and is designed for defence purposes.

Focusing on Latvia, the aim of the paper is to analyse defensive lawfare and deterrence in the context of hybrid threats. In order to achieve the aim of the paper, based on theoretical assumptions of deterrence and lawfare, the following research question has been identified: What is Latvia's approach to establishing defensive lawfare in terms of hybrid warfare? This paper implements both qualitative and quantitative research comprising document analysis and semi-structured interviews, as well as content analysis, respectively. Two semi-structured interviews were conducted with defence policy officials from Latvia who have been involved in decision-making and issues related to Latvia's defence policy. The study includes research and evaluation of theoretical literature, regulatory acts, policy planning documents, and empirical research on Latvia's defence policy. For the empirical analysis of the present paper, the chronological framework has been set from 2014 to 2022.

Theoretical and practical assumptions of deterrence, lawfare and hybrid warfare

Deterrence is and will be whilst there are threats, people, and weapons. Deterrence is particularly related to cases of large and destructive weapons. The word 'deterrence' is derived from the Latin *for terror*; similar roots from the linguistic aspect can be seen in German *abschreckung* and Russian *устрашение*, and especially in the Russian word *сдерживание* that was used during Soviet Union times (Walter, 2004, p. 216); whilst in the English language, the word *containment* is also used. The respective term can be regarded as a matter of stopping and weakening the spread, reducing the processes or activities, which may also be connected to certain regulations and norms (e.g., number, quantity, volume), and associated with certain conditions, thereby preventing it from freedom of expression. Deterrence manifested itself widely from the 1940s to the 1990s and was aimed at paralysing the opponent with terror. If an opponent was intimidated, the deterrence strategy succeeded; however, the deterrence had failed if an opponent attacked (Walter, 2004, p. 216). The concept of deterrence is characterised by the purpose of its definition to deter and convince someone not to perform a particular activity (Huth Paul, 1999, p. 26). In international relations, deterrence relates to using force and military components to limit either party to its achievement of the set objectives. Such objectives can also be achieved by military means. It is difficult to achieve deterrence, as the security environment has changed, from the matter of nuclear weapons, hybrid threats and both. The concept of deterrence has gradually evolved.

At the individual level, deterrence from committing a criminal offence is affected by a calculation between gains and losses, which at the same time means an assessment between the violation of the regulatory framework and liability. Similarly, deterrence is transferred to an international or national level. In a conventional sense, it is the responsibility of an individual for committing a criminal offence covered by Criminal Law. Two basic forms of deterrence at the individual level, i.e., general, and specific deterrence, can be identified. General deterrence means preventing a criminal offence in society as a whole, i.e. punishing offenders serves as a means of preventing other members of society from committing a criminal offence (Bosworth, 2005, pp. 233–234). Specific deterrence means only preventing an individual from committing a criminal offence in the future, meaning, if an individual commits an offence repeatedly, or several times, it will deter him from committing an offence in the future (Bosworth, 2005, pp. 233–234). The roots of deterrence performed together with punishment can be traced back to the works of such classical philosophers as Thomas Hobbes, Cesare, Beccaria, and Jeremy Bentham. Whilst analysing the concept and nature of law, Anatoly Krivinsh speculates about the leviathan times of Thomas Hobbes and the notion that was rooted during the respective period, meaning, in the conditions of Statehood, responsibility for the misconduct is imposed, i.e., sanctions (2020, p. 261). There exists a natural order, a dimension of national law and policy of states, as well as a dimension of international law and policy. In the international context, Patrick M. Morgan examines general, immediate, direct, and extended deterrence. Explaining deterrence, Patrick M. Morgan points to manipulation as one of the elements of deterrence policy (1983, p. 9). Manipulation (influencing the adversary's decision so that action becomes unattractive) mainly manifests itself in threats or rational use of violence. An essential aspect of deterrence is its dependence on government decision influence (Morgan, 1983, p. 26). The concept developed after the beginning of the Russian aggression in Ukraine in 2014 in the form of hybrid warfare.

The western community is based on lawfulness, democracy, reliance on human rights and international law. The primary mechanism for individual and collective self-defence

is stated in Section 51 of the UN Charter, and each country uses the international legal framework for deterrence too (laws and customs of war, human rights, etc.), whilst adapting it to the national level. After 2014, the concept of hybrid warfare was widely discussed. Janis Berzinsh called it the *War of the New Generation* and divided it into eight phases ranging from non-military asymmetric warfare to the breakage of residual resistance points and the destruction of surviving enemy units (2014, p. 6). Similarly, the main guidelines for Russia's military capabilities by 2020 have been analysed, meaning Russia with NATO and the United States (henceforth, the US) as geopolitical enemies, and instruments of asymmetric warfare (Berzins, 2019, p. 157). By nature, hybrid warfare combines and consists of military and non-military means: disinformation, cyber influence, economic tools, and deployment of armed groups (Cattler, 2021). In the context of hybrid warfare, deterrence is referred to as the fifth wave of deterrence theory and practice (Monaghan, 2022, p. 12). Moreover, it is characterised by the use of non-military means on the aggressor's part to achieve strategic objectives (Neal, 2020, p. 17), and recent years have shown the importance of technology and interconnectedness, as the speed and intensity of hybrid threats have changed (NATO, 2022). Hybrid warfare against NATO member countries may lead to aggression against all alliances. The role of law in deterrence and tactical and operational objectives has increased. The matter mentioned above is reflected in the concept of lawfare.

Lawfare can be called 'law warfare', 'law war' or 'juriscombat'. The concept first was discussed in 1975 by John Carlson and Neville Yeomans. In their view 'lawfare replaces warfare and the duel is with words rather than swords' (Kittrie, 2016, p. 6). Lawfare has been widely used since the 1990s (Dunlap, 2008, p. 146). In a modern sense, lawfare has been used by *Maj. Gen. Charles Dunlap Jr.*'s paper since 2001 (2001, pp. 1–27), but more widely in 2008 (Dunlap, 2008, p. 146) and 2017 (Dunlap, 2017, pp. 8–17). Furthermore, the respective concept is evolving to this day. Three definitions of the concept have been proposed by Dunlap. In his view, lawfare 'is the use of law as a weapon of war, is the newest feature of 21st-century combat', and 'lawfare describes a method of warfare where law is used as a means of achieving a military objective' and 'the strategy of using – or misusing – law as a substitute for traditional military means to achieve a warfighting objective' (Kittrie, 2016, p. 6). It has also been expressed that lawfare is a 'nebulous zone in which actions taken or contemplated to protect the nation interact with the nation's law and legal institutions' (Kittrie, 2016, p. 7).

The way how you affect the target depends on legal instruments, methodologies, and tactics. As the definition gradually evolved, it was also connotated as a 'strategy of using – or misusing law as a substitute for traditional military means to achieve an operational objective' (Kittrie, 2016, p. 2), or the use of the law as a means to accomplish what would otherwise require traditional use of military force (Dunlap, 2017, pp. 8–17). Lawfare has two forms. Defensive lawfare is about creating and using lawfare to defend and recover from offensive warfare, but offensive lawfare, on the other hand, being the effort to conquer and control by coercive legal means, is used as an instrument for attaining military objectives (Chifu, 2018, pp. 83–94). Both forms cover two directions. Positive lawfare or the use of law for protecting values, human rights and defending an accused person and negative lawfare or misuse of the law or twisting the law to achieve military objectives (Chifu, 2018, p. 90).

The United States, for instance, is seen as more defensive and rule-based towards lawfare, but China's officers 'should not feel completely bound by international law that is harmful to China's national interests' (Williams, 2020). In order to achieve its own military and political objectives by applying hybrid threats and lawfare, China acts in the South China Sea (Tacujan, 2022) and towards Latin American coastal states (Schatz and

[McCreath, 2022](#), p. 14). One of the best examples of recent times of how the law is used as a means of achieving a military objective is the flows of refugees organised by Russia and Belarus. Matthew Anderson's analysis shows that Belarus's activities are referred to as lawfare against Latvia, Lithuania, and Poland, which is mainly expressed through the prism of human rights violations (2021). Russia used all types of non-military and military tools during the hybrid war against Ukraine, including covert elements with the deployment of armed groups. In Russia's toolbox, we can see lawfare from the 18th century.

Through asymmetric activities, Russia tries to erode international principles and international law as such. With the intent of protecting Russian speakers, it used lawfare techniques against Georgia in 2008 and Ukraine in 2014 to legitimise occupation ([Voyger, 2019](#)). Mark Voyger highlights that Russia has self-proclaimed rights of intervention and challenges the existing international order; furthermore, law is used in different domains to influence the Russian population, target nations and Russian adversaries (2019). In Russia's case, lawfare manifests itself in imperialistic tendencies. From the military point of view, in hybrid warfare, states apply lawfare from a different perspective. The law can be used to achieve either destructive or non-destructive effects. Lawfare is less deadly than traditional war, with lower costs than a conventional war and may also be more effective than kinetic warfare ([Kittrie, 2016](#), p. 3). The lawfare can be both the achievement of military objectives with the intention of protecting the sovereignty of a State or collective union as effectively as possible and may become a part of a broader strategy as an element of deterrence. There are two types of potential armed aggression against Latvia, in the form of hybrid warfare (combining military and non-military as covert and overt means) and conventional warfare (the use of conventional, traditional means to wage war). The case of Latvia and its defensive legal approach to overcoming threats of hybrid warfare has been chosen as an example of the empirical part of this research.

Basis for defensive lawfare: an overview of aspects of hybrid warfare in Latvia's defence policy

Latvia's defence policy strategy is based on deterrence, and a Comprehensive State Defence system has been introduced there ([MoD, 2021](#)). Since 2014, three National security concepts (concepts – NSC) and three National defence concepts (henceforth – NDC) have been approved. Basically, all aspects of hybrid warfare are included in all NSC and NDC. It was documented in 2015 that the essence of a hybrid threat is to gradually achieve a debilitating internal political situation in the country (discontent, protests, action against existing power), with the additional use of economic sanctions, as well as manipulation regarding energy supplies, humanitarian impact, propaganda and psychological influence, manipulation with aggressive impact agents, diplomatic and military pressure ([NSC, 2015](#)). Since 2019, it has become apparent that the number of possible hybrid threats involving non-military and military aspects has increased, because it is pursued to achieve foreign policy objectives whilst disregarding international law ([NSC, 2019](#)). It is apparent that Russia, with the components of conventional or asymmetric warfare, can use threats, other states, and nongovernmental organisations ([NDC, 2016](#)). In hybrid warfare, it is difficult to see the borders between a state of peace, a crisis, and a time of war in the area of security ([NDC, 2016](#)).

In Latvia's case, Russia's attempts to influence security with various levers of influence, including propaganda, psychological influence, influence in cyberspace, support of influence agents, and activities in border areas ([NDC, 2016](#)). The impact of information technology is of great significance for the functioning of society during times of peace, as it is

in the case of hybrid and conventional warfare (NDC, 2016). In view of the risks of asymmetric or hybrid warfare, the National Armed Forces (henceforth the NAF) must develop the ability to counteract asymmetrically, whilst also neutralising asymmetric warfare, special operations, and amphibious assaults (NDC, 2016). The capabilities and morality of the adversary would therefore be affected, and effective protection of the sovereignty and territorial integrity of the country would be present. Paying more attention to the hybrid threats than before, in the NDC of 2020, the protection against this issue is described in a separate chapter. Russia's influence on foreign elections, politicians, and public opinion with methods of informative warfare and cyber-attack in the Baltic Sea region is discussed (NDC, 2020). Russia seems to be acting based on the principle that 'everything that cannot be punished or responded to is allowed' (NDC, 2020). It means that Russia is not bound by international law, its actions, or inactions, whilst also including the conditions for the conduct of war. Russia's activities are offensive warfare. The respective point can be seen in the actions taking place in Ukraine since early 2022.

One of Russia's scenarios in Latvia is hybrid warfare, including the use of special force (in Russia spetsnaz - special operations units) units, as well as a conventional attack that can be unexpected and sudden, with the purpose of obtaining some territory. In recent years, the level of hybrid threats has increased, indicating the need to strengthen society's resilience and response capacity, while not distracting from the range of measures and actions to be taken (NDC, 2020). Within the framework of the concept of comprehensive defence, effective functioning, capacity, competence of the institutions, cooperation, response, decision-making procedures, and training of activities are important. The respective aspects partly come from the 2021 information report on 'The Introduction of a Comprehensive Defence Approach in Latvia' (MoD, 2021). In the NSC and NDC, the terms that are linked to asymmetric or hybrid warfare are sufficiently broad (e.g., hybrid warfare, hybrid threats). Until 2014, neither the concept of the NSC nor the NDC mentions the aspects of hybrid warfare. However, the respective aspects are mentioned in all documents from 2014. They are most broadly discussed in the 2016 NDC and the 2019 NSC.

The directions of the hybrid warfare and impact levers that can be used by the potential aggressor are indicated, whilst also providing a message specifically for Western society, Latvia's cooperation partners (particularly NATO and the EU), and for the potential aggressor. The respective message should not only be perceived as provided by Latvia, but also by Latvia as a NATO and EU Member State. It has been a common narrative since the launch of Russia's 2014 military aggression in Ukraine in the form of hybrid warfare, which is in direct accordance with NATO's deterrence policy and has been an aspect of Latvia's comprehensive defence policy. Apart from the point mentioned above, the legal aspect, which enables military force to be implemented and serves as a means of weapon to achieve operational and tactical goals, if necessary, is also important. In Russia's case, it includes activities against its offensive warfare as well.

The legal aspect performs the function of being a message to the potential aggressor regarding the capacity and action that is in accordance with the principles of the legal State, a mechanism for applying force, as well as a way of protecting institutions and soldiers. Knowing that NATO is a defence organisation, warfare and legal aspects manifest themselves directly in defence warfare in Latvia's case. With regard to the law, it should be noted that today's battle is about minds, because warfare is about people and the impact on them. The law and legal system can implement the principles of democracy, which is related to international law, values, and the achievement of military objectives, maintaining humanity with fewer losses (Kreslins, 2022).¹ Hybrid

¹K. Kreslins is a Latvian military person, former officer of the Latvia's National armed forces, military researcher, reserved brigade general, was a member of the Saeima for several times.

warfare includes military components as well; therefore, every state should create elements on a national level to defend itself and the law is just a part of it (Kreslins, 2022). The law helps to achieve military goals, and, in the case of Latvia, it can be seen especially after 2014. The term *lawfare* is not included in the policy planning document, but it can be seen from Latvia's approach, which is defensive lawfare, to its legal framework.

Defensive lawfare: Latvia's legal approach to hybrid warfare

A series of legal acts apply to Latvia's defence policy, the most important of which are the National Security Law, the Military Service Law, the 'Status of the Foreign Armed Forces in the Republic of Latvia' law, and a series of Cabinet regulations. From a military perspective, the armed forces of every country must be prepared to carry out offensive, defence, or stability operations, as well as large-spectrum operations simultaneously. The most important objective is to complete operational tasks in the areas of operations. In terms of politico-military aspects, it is essential for the State to prevent any potential aggression and avoid the involvement of military units (combat, combat support, combat service support). One thing that ensures both deterrence and the building of a system in which the military is entitled to use military means, if necessary, is the regulatory framework – defensive lawfare. In Russia's case, force determines everything, but deterrence is increasingly important; the legal aspect is a recurring element of the deterrence spectrum, which must be according to the same ideas and principles as international law (Kreslins, 2022). It serves both as a component of deterrence and as a means of achieving military objectives. In Latvia's case, the national regulatory framework has been affected by significant changes since the aggression launched by Russia in Ukraine in 2014. The existing regulations for defensive lawfare came into force before the Russian aggression in Ukraine in 2014, although some were amended after this began.

The National Security law contains a norm that allows the Cabinet to assign the MoD to lead the measures for overcoming the threat in a restricted territory during peace in accordance with the State Defence Plan (National Security Law, 2001, s. 23). If the Cabinet cannot fulfil its functions, the Prime Minister is authorised to decide thereon. However, if the Prime Minister is hindered in the fulfilment of his or her office, the Minister for Defence is authorised to decide thereon. Such a framework applies to peacetime, where there is the greatest risk of asymmetric military activities, including situations when 'little green men' appear in state territory, as happened during the annexation of Crimea. The notation of the respective amendments refers to one of the main conclusions, and an example, following the Ukraine crisis in 2014, is that one should create tools to fight representatives of specialist foreign units and intelligence services (Amendments to National Security Law, 2017). The law was thus supplemented by a special legal provision to address the situation of hybrid warfare (providing for rapid and effective decision-making arrangements). The word 'peacetime' refers to a situation where the country does not have a special legal regime (emergency or state of exception situation). The priority for every State is building military capabilities and various military-tactical and operational solutions, followed by changes targeted in the legal framework (MoD Official, 2022). In Latvia's case less attention was drawn to legal aspects – defensive lawfare, but as the overall situation changed and Russian aggression in Ukraine began in 2014, the legal framework changed as well (MoD Official, 2022). Altering a regulation means using the capabilities of the whole system to enhance abilities to defend the country (MoD Official, 2022). Some of the changes should be played out in various scenarios on the ground and special plans can be changed after that as well (MoD Official, 2022).

In Latvia's case, the State of Exception, i.e., a special legal regime, may be declared in two cases: 'if the State is endangered by an external enemy', or 'if internal disturbances which endanger the democratic structure of the State have arisen or are in danger of arising in the State or any part' ([On Emergency Situation and State of Exception, 2013](#), s. 11). The State of Exception can be declared throughout the territory of the State or a part thereof. The mentioned condition allows the rights and freedoms of people to be restricted. It is the Parliament of Latvia, the Saeima, which has the right to decide on the declaration and commencement of the war; however, the President can propose the issue of declaration and commencement of war to be decided in the Saeima ([National Security Law, 2001](#), s. 6 and 8).

A list of situations that would be considered as threatening Latvia are incorporated in the regulatory framework and serves for the purposes of State defence. The law lists three instances, without excluding others. The first is about illegal entry into or the presence of various military mechanical devices (e.g., military aviation aircraft, remotely piloted, unmanned military mechanical devices) in Latvia ([National Security Law, 2001](#), s. 23⁶). The second is linked to intelligence or illegal access to information systems, electronic communications system, and interruption of important objects for the national security of Latvia ([National Security Law, 2001](#), s. 23⁶). The third is the most important in the context of the hybrid warfare and it concerns the entry or location of illegal unmarked military formations in Latvia ([National Security Law, 2001](#), s. 23⁶).

Hybrid warfare may also be applied together with a conventional attack at certain stages of conflict development or escalation. As demonstrated by Russia's aggression in Ukraine in 2022, conventional warfare can also be implemented separately, with only individual activities at the initial stage of aggression that can be considered as part of hybrid warfare. In the context of military aggression, if an unexpected military attack occurs, the commander of each NAF unit is authorised, in accordance with the special plan, to defend the country without waiting for a separate decision ([National Security Law, 2001](#), s. 25). Authorisation is given for a time when the State or part thereof has not announced exceptional circumstances.

In Latvia, separate procedures regarding foreign warships and other foreign service vessels entering and residing in the territorial sea, internal waters, and ports of Latvia, as well as the respective sea vessels exiting from the territorial sea, internal waters, and ports, are also specified. There are a series of conditions to be indicated in the application, i.e., the nationality, nature, and purpose of each foreign warship's visit, and the time and place of the visit, etc. ([Cabinet regulation No. 77, 2022](#), s. 7) Certain functions are performed by the navy units of the NAF, which fulfil coastguard functions ([Maritime Administration and Marine Safety Law, 2002](#), s. 4). In the context of hybrid warfare, the point mentioned above is to be viewed together with the procedures for vessel control, inspection, and detention in Latvian waters. Navy units of the NAF that perform coastguard functions are entitled to control vessels by performing several functions: undertaking a survey of the ship with reference to the reasons and objectives of entry (by communication means); undertaking supervision of vessel movements (by using technical means) and visual supervision of the ship's operation ([Cabinet regulation No. 363, 2016](#), s. 3). Ship control, inspection or detention may be performed in the territorial sea. Along with ship control and detention, an inspection of the vessels may be performed in the territorial sea and undertaken by the Coast Guard if: the ship is illegally transporting firearms, explosives, illegal immigrants; is involved in other criminal offences; the information provided to the Coast Guard is incomplete or suspected to be false; there is a threat of terrorism ([Cabinet regulation No. 363, 2016](#), s. 6). In Latvia, a vessel may be detained if it threatens to use or uses force against sovereignty, territorial unity, or political independence or violates the

provisions of international law in any other way; makes manoeuvres or carries out training with weapons of any kind; performs activities related to collecting harmful information and engages in propaganda acts against the security or defence; launches an aircraft or military equipment or ensures descent or acceptance on an open deck; carries out activities which are aimed at disrupting the operation of the communication system and other devices or equipment; or damages submarine cables or pipelines within Latvian waters or uses a ship that endangers navigational safety ([Cabinet regulation No. 363, 2016, s. 11](#)).

The directions mentioned above may be used as part of hybrid warfare with a respective combination of tactical and operational solutions. The basic aspects of the status of NATO forces in Latvia and other states are included in the agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces. In addition, according to the law relating to the Status of the Foreign Armed Forces in the Republic of Latvia, the rights of the NAF and their officials, i.e., NATO and the EU's armed forces, can be involved to provide support to perform tasks derived from the NAF law ([Status of the Foreign Armed Forces in the Republic of Latvia, 1997, s. 2²](#)). The Law applies to the Status of the Foreign Armed Forces in Latvia at a time when they have the official duties according to the international cooperation. The commander of the NAF or responsible officer assigned by the commander is the highest authority to determine the provision of support, the tasks, the time, place, and restrictions ([Status of the Foreign Armed Forces in the Republic of Latvia, 1997, s. 2²](#)). According to the law, persons serving in the foreign armed forces, during residence thereof in the Latvia, are entitled to carry and use firearms solely for fulfilment of service duties ([Status of the Foreign Armed Forces in the Republic of Latvia, 1997, s. 5](#)). The law also determines questions related to crossing the border of Latvia, the transit of foreign armed forces through the territory of Latvia, the jurisdiction of the armed forces, conditions for military exercises and manoeuvres, health protection, and exemption from taxes.

In connection to the matter of the defence mentioned above and in the context of hybrid warfare, the authorisation of force and the use of firearms is of great importance. In Latvia's case, coast guard vessels may use weapons if it is an extreme emergency situation (i.e. the suspected ship does not cooperate, ignores legitimate requests, disrupts an inspection, or tries to prevent inspection) ([Cabinet regulation No. 363, 2016, s. 16](#)). The commander of the coast guard ship makes a decision regarding the use of the ship's weapons, he evaluates the situation, and addresses the question of the suspect ship violating the right of innocent passage. In the context of hybrid warfare, the situation described above may occur if, according to the received information, the suspected ship or the people on board pose a threat to the human life or the State. In such cases, 'it is necessary to stop acts of violence against the coastline, submarine objects and drifting objects on the sea surface of Latvia' ([Cabinet regulation No. 363, 2016, s. 16](#)).

If the provisions mentioned above relate more to the inspection of ships, the primary questions regarding the use of force and firearms during peace are determined by Sections 13 and 14 of the Military Service Law. A soldier's right to self-defence is not prohibited. In Latvia, a firearm may be employed without warning for the purpose of performing a special operation and it is based on the concept of an operation ([Military Service Law, 2002, s. 13](#)). In the respective case, the employment of firearms, as mentioned in the annotation, is linked to the regulation on the concealed military threats mentioned above ([Amendment to Military Service Law, 2021](#)). For example, from a practical perspective, it relates to the deployment of armed groups without insignia. A similar regulation on special operations also includes the right to use physical force, special fighting techniques, special means, non-firearm weapons, special vehicles, and other devices ([Military Service Law, 2002, s. 14](#)). The regulatory framework of Latvia is designed for defence purposes and is also a way of promoting deterrence; therefore, it is defensive lawfare. It allows

Latvian soldiers to be more protected whilst performing the assigned tasks. It was also drawn up according to international law.

Conclusions

In 2014, Russia's hybrid warfare against Ukraine caused far-reaching repercussions that have not yet disappeared. As an aggressor state, Russia can use hybrid warfare separately or with a conventional attack. In such a way, offensive lawfare can be applied and be present as well. In international relations, it is possible for deterrence to limit the other party's objectives. It is a matter of calculating gains and losses. The improvement of a regulatory base and the development of deterrence, whilst using regulatory acts, is an element of deterrence and a way to act legally. The law can also be used to achieve military operational and tactical objectives. The legal system of Western countries is based on international and national regulation with the aim of protecting citizens and the country, i.e. the aim is not to conquer, so it is offensive lawfare.

Three definitions of the concept have been proposed. Lawfare 'is the use of law as a weapon of war, is the newest feature of 21st-century combat', and 'lawfare describes a method of warfare where law is used as a means of achieving a military objective' and 'the strategy of using, or misusing, law as a substitute for traditional military means to achieve a warfighting objective'.

It has two forms. Defensive lawfare is about creating and using lawfare to defend and recover from offensive warfare, but offensive lawfare, on the other hand, being the effort to conquer and control by coercive legal means, is used as an instrument for attaining military objectives. Aspects of both deterrence and the establishment of legal frameworks, while both preventing and ensuring the achievement of operational and tactical objectives, are essential in the context of hybrid warfare or threat. It differs from conventional warfare and has a much more complicated nature and a wider evolving field. It must be possible to develop the ability to act asymmetrically by neutralising any asymmetric threat or special operations of special forces at a national level. Russia has an extensive impact niche in the context of hybrid warfare. The initial phases of hybrid warfare are of the most critical importance during peacetime, followed by an escalation of potential threats at another stage or in the form of 'little green men'. In peacetime, it is a significant threat and a question not only of identifying such formations, but also of the legal aspects of achieving operational and tactical objectives, so that the actions mentioned above are prevented and, if necessary, successfully counteracted. Latvia's defence framework focuses on the performance of defence functions and is adapted to primary needs and is sufficiently flexible to ensure the protection of the State. The legal framework also serves as an element of deterrence or part of what is compatible with international humanitarian law (the law of war).

In Latvia's case, the legal base includes a regulation not only to overcome hybrid threats, but also for the implementation of broad-spectrum defence measures. Moreover, for overcoming a concealed military threat in peacetime, if military means are used, the Cabinet may assign the Ministry of Defence to lead the measures for overcoming the threat in a restricted territory. Furthermore, cases of State-threatening situations have been incorporated into the Law, including illegal entry into the country and the presence of military formations or unmarked military formations in Latvia. The legal framework states that if there is an unexpected military attack, the commander of each NAF unit must initiate military defence measures without waiting for a separate decision regarding the respective situation if the State or part thereof has not previously declared a state of emergency.

The Maritime Administration and Marine Safety Law states that Navy units of the NAF, which perform coastguard functions, are entitled to control ships by demanding a ship explains the reasons for and the purpose of entering; by underrating traffic monitoring of a ship; and by performing visual monitoring of the ship movement. The legal framework also stipulates the conditions for the use of firearms, including for the purpose of carrying out a special operation, which must also be performed without warning, and moreover, is based on the concept of an operation. The regulatory framework of Latvia is designed for defence purposes, whilst also being a way of promoting deterrence. Decision makers must be able to manoeuvre with the powers assigned to them, especially to achieve military aims at the tactical and operational levels. *Future studies* on lawfare and the approach of states can address the impact of national defence policy, national legislation on the deployment and employment of foreign and NATO troops, and can provide insight into the nuances of applying the law for the achievement of state goals not only in the military field, but other dimensions of defence.

Funding

This research received no external funding.

Data Availability Statement

No new data were created or analysed in this study.

Disclosure Statement

No potential conflict of interest was reported by the author. The author read and agreed to the published version of the manuscript.

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