



## **LEGAL ANALYSIS OF CIVIL-MILITARY COOPERATION AND GENDER POLICY IN UKRAINE AND EUROPE**

**ELVIRA TITKO**

Department of International and Comparative Law  
University of the State Fiscal Service of Ukraine  
08200, 31 Universytetska Str., Irpin, Ukraine

**ILONA KUROVSKA**

Legislation Institute  
Verkhovna Rada of Ukraine  
04035, 4 Nestorivskyi Lane, Kyiv, Ukraine

**PETRO KORNIENKO**

Department of Philosophy and Social-Humanitarian Disciplines  
National Academy of Statistics, Accounting and Audit  
04107, 1 Pidhirna Str., Kyiv, Ukraine

**IRENA A. BALZHYK**

Department of General Theory of Law and State  
Faculty of Advocacy  
National University "Odesa Law Academy"  
65009, 2 Akademichna Str., Odesa, Ukraine

**GANNA M. STOYATSKA**

Department of Psychology  
Dnipro Academy of Continuing Education  
49006, 70 Volodymyr Antonovych Str., Dnipro, Ukraine

### **ABSTRACT**

A democratic society recognizes the value of equal opportunities for men and women in all spheres of life, including in the armed forces and civil-military interaction. In Ukraine, the Constitution and other legislative acts are primary guarantees of gender equality at the national level. However, the question of gender policy in civil-military cooperation and its implementation under hostilities remains practically unexplored. The aim of the study is to analyze the civil-military interaction based on the jurisprudence of the European Court of Human Rights (ECtHR) related to gender policy. The methodological framework of this research consists of general scientific, philosophical, and special methods, where the formal-legal method occupies the center place. It helped to examine legal provisions of international law, doctrinal approaches, and the case law of the ECtHR related to gender policy implemented within the system of civil-military interaction. The article provides a theoretical legal analysis of civil-military interaction through the prism of human rights protection and determines its features. The article also pays significant attention to the issue of equality between men and women in the context of military conflict and civil-military cooperation, based on international law and scientific approaches.





**Keywords:** civil-military interaction; civilian control; gender equality; human rights; legal regulation.

## 1 INTRODUCTION

Today, countries, even with significant military resources, are unable to overcome the threats of the 21<sup>st</sup> century on their own (terrorism, proliferation of weapons of mass destruction, illegal trade in weapons and drugs, organized crime, illegal migration, etc.). That is why a set of so-called national security was formed, which laid the foundations for a single global (international) security. They are inextricably linked and it can be argued that they are characterized by the absence of any threats to individuals, countries, or, in the case of international security, the system of international relations as a whole. It can be concluded that today the world is on the threshold of a new connection between man and the military in the context of security in order to protect the rights of everyone, without which it is impossible to implement the tasks of national Strategies and the Doctrine of International Security (Manza, 2020).

In today's world, the need to study such a phenomenon as civil-military cooperation (CMC, CIMC) is no longer in doubt. Since during operations the task of the armed forces is not to achieve results by any means and costs, and the mission, in the first place, should be with minimization of losses and protection to the local population, for the benefit of "life", where the expected result is a peace and security for man. The armed forces must work closely with the civilian component, which includes the entire civilian environment: local people, civilians, organizations (governmental, non-governmental), civilian institutions, local authorities and much more. Many years of practice have shown that without close cooperation, the implementation of missions is burdening and becoming complicated (Titko, 2021a).

Equally important is the issue of gender equality in civil-military relations. Gender equality is a concept based on the idea of achieving legal and social equality between men and women in law and in society, giving them equal opportunities in all spheres of public life, especially in the workplace. For the past three decades, gender issues have





been the focus of international relations theory, especially in the areas of security and defense. Moreover, more attention has recently been paid to "gender mainstreaming" in military operations (United Nations Security Council, 2000; Manza, 2020). Discussions on gender and the gender perspective are not new, but increased attention to the interdependence between security (especially human) and development has led to greater support for universal human rights and equality requirements in areas such as access to justice, education and health. Balon, Björsson, Geiss, Holvikivi, Kadar, Lysyckina, and Watson (2016) noted that the need to pay attention to gender equality has been strongly included in the international agenda in both political and military circles.

Today, however, gender asymmetry continues to exist to some degree in every country in the world. This objectively prevents the full operation of public structures and the development of the private sphere. The lack of an appropriate mechanism to ensure the principle of gender equality deepens the problem of social injustice in society and, as a consequence, hinders sustainable human development. Today, ensuring equality between women and men is one of the priority issues of the formation of the modern Ukrainian state (Hrytsai, 2018). The aim of the study is to analyze the civil-military interaction based on the jurisprudence of the European Court of Human Rights (ECtHR) related to gender policy.

In the course of the research a system of general scientific, philosophical and special methods was applied, the application of which ensures the reliability of the obtained results and achievement of the formulated goal of the article. In particular, to cover certain stages of the formation of civil-military interaction and the formation of its concept, the author turned to the historical and logical method. The formal-legal method is used to analyze the concepts disclosed in the article, in particular, "war", "civil-military interaction", "gender policy", "subjective civil control", "human security", etc., as well as the general principles of protection human rights norms of international law. In addition, the formal-legal method is used to analyze the case law of the European Court of Human Rights and acts of international organizations relating to civil-military cooperation.

Methods of scientific knowledge are used to study the peculiarities of civil-military cooperation in the context of human rights protection. The application of the system method, aimed at considering all elements of research in the relationship as elements of





the system, made it possible to summarize information on the features of civil-military interaction and its relationship with the protection of human rights. The method of analysis and synthesis made it possible to process theoretical information, international legal acts, case law and on their basis to identify problems that exist in the research area and ways to solve them. The analytic method allowed authors to analyze and evaluate facts and the case law of the ECtHR relative to gender policy and determine the cause-effect between the NATO-Ukraine Annual National Program and the actual implementation of gender equality in the Armed Forces of Ukraine.

These methods provided an opportunity to comprehensively consider the development and current state of civil-military cooperation, its features in the context of human rights protection, as well as to analyze the existing case law of the European Court of Human Rights on various aspects of the issue.

## 2 LITERATURE REVIEW

The Ukrainian author Titko (2021a) comprehensively analyzed features of CIMIC. The author explored the regulation of the structure of civil-military cooperation of the world's leading countries with an explanation of the basic principles and objectives, where special attention is paid to the element of communication with the civilian element. Titko (2021a) also noted that the leadership of the developed countries, as well as the NATO bloc, realized the need to modernize approaches to resolving military-political conflicts, which was reflected in the improvement of regulations related to the implementation and operation of CIMIC.

Another Ukrainian researcher Yu.V. Kryvenko (2017) analyzes the features of the legal regulation of civil-military interaction by acts of international law and national legislation of Ukraine. The researcher paid special attention to the principles of civil-military interaction, dividing them into special and general legal, examining each in detail and establishing the relationship between them. In addition, Yu.V. Kryvenko (2017) stressed the need to take into account modern realities in the legal analysis of the phenomenon under study.





Domestic scientist I.M. Koropatnik (2016) in his scientific work based on the analysis of theoretical and methodological sources and administrative legal acts, national practice and international experience formulated the concept of interaction of civil society in the Armed Forces of Ukraine at the present stage of Ukrainian statehood, defined and characterized its legal basis new scientifically substantiated positions and recommendations, the purpose of which is to improve the organizational and administrative-legal basis of interaction between the army and the public in the interests of national security and the development of democratic relations in Ukraine.

The general theoretical aspects of gender equality in the armed forces were laid down by L.O. Petrova and O.Yu. Panfilov (2020). The researchers analyzed the current problems of gender policy in the army and substantiated the principle of equality, which has several manifestations, one of which is the principle of gender equality, which means an equal approach to everything regardless of gender. They also analyzed gender stereotypes, gender norms of behavior and problems of gender identification in modern Ukrainian society.

The issue of gender equality and representation in the forces of civil-military interaction is revealed by the Ukrainian researcher Yu. Strebkova (2018). Based on the analysis of the UN Security Council Resolution 1325 "Women, Peace, Security" and a number of related resolutions on gender cooperation in the security sector, Yu. Strebkova (2018) substantiated the need to train civilian specialists who are able to solve problems and implement the functions of civil-military cooperation. In addition, the researcher singled out the gender component of creating conditions for interaction between the local population and the defense forces during national, multinational and other operations, including led by NATO.

The Ukrainian scientist I.O. Hrytsai (2018) researched an in-depth analysis of the issue of gender equality in general and in the military sphere in particular. Her work is devoted to the problems of theory and practice of the mechanism of ensuring the principle of gender equality. The paper reveals the concept, essence and relationship with related categories of the principle of gender equality. Research and methodology in the field of gender equality are analyzed. Emphasis is placed on the mechanism of ensuring the principle of gender equality, its concepts and elements are defined. A general description





of the legal and institutional components of the mechanism for ensuring the principle of gender equality in Ukraine is provided (Hrytsai, 2018).

Some aspects of human rights in civil-military co-workers also investigated: K. Webster, C. Chen and K. Beardsley (2019), N.V. Vavilova (2016), V.Ya. Nastiuk, V.V. Karelin and I.M. Koropatkin (2020), J. Manza (2020), Yu. Strebkova (2018), K. Watson (2020) and others. Despite the number of scientific papers on the subject, however, today this topic remains controversial.

### 3 RESULTS

#### 3.1 THE ESSENCE OF MILITARY-CIVIL INTERACTION THROUGH HUMAN RIGHTS

Exploring the subject of war and the civilian component, it is necessary to understand the very concept of war. For example, the German officer, military theorist of the XIX century Karl von Clausewitz in his famous work "On War" in 1832 gives the following definition: "War is an act of violence aimed at forcing the enemy to do our will" (NATO Standardization Office, 2015); "War is an integral part of competition, the same struggle of human interests and actions" (NATO Standardization Office, 2014). In addition, Karl von Clausewitz believed that the main purpose of warfare lies in the political sphere: "The political goal, which is the primary motive for the war, is a measure for the goal that must be achieved through action fan, and for determining the amount of necessary efforts" (Allied Joint Doctrine, 2010). Given this perception of the concept of war, we can conclude that the war is a direct continuation of politics. Any military action, even between civilized nations, stems from the political situation and is caused by political motives (Titko, 2021a).

Of course, in modern international law, war, as a method of achieving a goal, is completely rejected. This is due to the many military conflicts experienced by human civilization, the establishment of human rights, the principles of humanism and peaceful existence. To begin with, it is necessary to understand what human rights are and why their assertion has influenced the principles of warfare. Human rights are a set of inalienable rights, freedoms and legal opportunities provided to everyone without any





restrictions for human existence and development in a specific historical period with a certain standard of living, which must be universal and accessible to all without exception and finds its enshrinement in legal acts. It is worth noting that their emergence is a reaction to the oppression of people in various fields: political, economic, social, cultural and so on. Although the first origins of human rights can be observed throughout human history, this area reached its active development just after the end of the World War II. It can be argued that a kind of impetus for the development of human rights has just become brutal ways and methods of warfare.

As for the mechanisms of interaction between the army and society they are the integrity of the elements that are interconnected, which makes it possible to identify a number of important social functions of cooperation: communication, control, exchange of social resources, regulatory and social mobility. The specificity of the army's interaction with society on the territory of, for example, modern Ukraine is defined as a process of global social transformation along with the procedure of self-reform. Considering the interaction of the army with society through historical practice, we note that throughout all stages of history, humanity has treated the army of their country with respect. For example, service in the army of ancient Rome was considered prestigious. The French public thinker of the Enlightenment, J.-J. Rousseau: "Everything in Rome breathed this love of fellow citizens for each other and the army, with this respect for the name of the Roman, which lifted the spirits and aroused valor in everyone who had the honor of bearing this name" (United Nations General Assembly, 1970).

It should be emphasized that sometimes the army separates from society in the formation of military regimes of government, which often have a regressive effect on the development of the state. An example of this is the 200-year experience of the independent existence of Latin American countries. During the XIX-XX centuries, it was on its territory that the largest number of military dictatorships took place, which were established by military coups, such as: the establishment of the institutional-revolutionary party in 1929 in Mexico, the revolution in Brazil in 1930, the conspiracy against Duvalier in 1958 in Haiti, revolt in Chile in 1973, the overthrow of the dictatorship of Somos in Nicaragua in 1979, etc. This is due, first of all, to the rupture of ties between society and the army, the perception of the armed forces, these areas, as political forces. When





journalists asked Augusto Pinochet, who had just headed Chile, what political forces he relied on, the general replied: "I rely on three political forces - land, navy and air force" (Centre interarmées de concepts..., 2012). Theorists believe that the army is one of the most important areas of interaction between society and the state. Given the fact that the country's military policy may have a punitive, aggressive, peacekeeping, liberation or defense orientation, the subjective perception of the army and its objective content do not always coincide.

Of course, society and the army interact with each other and are interconnected as a whole social organism. They are something more than a social formation, which consists of individuals, social groups and other units of social actors, and act as a system of parts united into a single whole. It should also be noted that along with this, various social institutions and social groups are separate elements of the system of society, involved in relations with the army in various fields, which include the formation of public opinion on war and peace, defense of the homeland, military construction, as well as views and positions, which are generally called military ideology. In addition, such interaction is manifested in organizational form, as the state is interested in carefully maintaining its monopoly on the use of armed violence (Titko, 2021b).

One of the urgent problems of society is the study of the relationship between the armed forces, on the one hand, and civilian institutions, on the other. Various sections of the population have always been concerned that the power of a military organization created to protect the state and society could be used to seize power illegally, which is certainly not to the benefit of the state and society. Such developments are designed to prevent the so-called civil control, which serves as a reference point for civil-military relations, which gave some start to the development and understanding of the study of civil-military cooperation, as, in our opinion, aspects of the study are based on understanding a military relations, which is not the same, as the main component of the formation of relations between society and the army is the introduction of civilian control over law enforcement agencies, which differ as one of the main features of a stable political regime in the country.

In this context, we consider it appropriate to pay attention to the classic of military science, American political scientist S. Huntington (1957), especially since he studies civil-







military relations, according to his work "The Soldier and the State: The Theory and Politics of Civil-Military Relations", which develops the concept of combining civilian and military institutions, which was published in the midst of the Cold War. The work has undergone much criticism and contradictory assessments, but today it is considered one of the classic conceptual works on the issue of civil military relations. S. Huntington's creation of the theory of civil-military relations took place in the process of comparative study and generalization of military-historical analysis, military thought, comparison of civil and military relations on the examples of American, English, French, German and Japanese experience.

The work of S. Huntington (1957) consists of three parts. The first part of "Military Institutions and the State: Theoretical and Historical Perspectives" reveals the main features of the officer corps, profession (military), "professionalism", "professional ethics", "military intelligence" in the context of theory and historical retrospect. The second part, "Military Force in America: Historical Experience: 1789-940", characterizes the American liberal approach to military affairs, shows the elements of American liberalism that influence international relations, and the search for objectivity in international affairs. In the second part, S. Huntington (1957) describes a "hostile image of the military profession" and a liberal military policy. However, the relevant part also shows the features of civilian control over the armed forces in the United States (Titko, 2021a).

Subjective civilian control, according to S. Huntington (1957) is the control of the armed forces by one or more civilian groups, respectively, subjective control - is the control of the armed forces by any one particular social or political group, while objective civil control is control by society as a whole with the help of popularly elected authorities. As noted by S. Huntington (1957), the simplest form of subjective control is the maximization of civil power, which always means maximizing the power of certain social groups. The general concept of civilian control is identified with the specific interests of one or more civilian groups. Thus, subjective civilian control implies power relations between certain civilian groups. Subjective civilian control is possible as the only form in the absence of a professional officer corps (Titko, 2021a).

The civilian element is a prototype or indicator of communication with man, which allows the military to study in more detail the situation that has developed at both the





national and international levels. One of the most famous studies of civil-military relations in society is the previously mentioned work of S. Huntington (1957) "Soldier and State", which presents the theory and policy, according to which you can combine the competence of the military with the political leadership of civilians (United Nations General Assembly, 2015). In the decade since the publication of S. Huntington's work, the situation in the world has not fundamentally changed. In particular, Carl Bildt, head of the UN Mission in Bosnia and Herzegovina in 1996, said: "Whatever we call operations, forcing peace through peacekeeping operations requires a civilian component and a civilian-military community" (Press Conference by High Representative for..., 1996). That is, the main task of civil-military cooperation is to organize interaction with civilian structures in order to provide assistance to the civilian population. Moreover, there is a need to establish maximum cooperation between civilian institutions and the population with military structures within the conflict zone, to create the best moral, material and tactical advantages over the enemy in resolving the crisis situation (Titko, 2021a). The structure of civil-military cooperation promotes peace and stability through certain mechanisms. First, it expands the relationship between peacekeeping and forces and the local population. Second, working to create the appropriate role of peacekeeping forces in the society, forms the opinion of the population on peacekeepers as "forces of good" and contributes to their maintenance and, finally, engaged in reconstruction of houses, schools, roads, promotes local ideas about improving housing conditions. Of course, fulfilling such tasks significantly reduces the motivation of people to resort to violence.

The need to create existing civil-military structures in the governing bodies of the military forces of the world's leading countries arose in the second half of the twentieth century. This is due to numerous armed conflicts in the territories of Southern and Eastern Europe, for the settlement of which, primarily, international peacekeeping contingents were involved. Thus, given the experience of past operations, NATO military analysts have concluded that the use of military force is not the main factor in achieving the goal. Existing threats require constant analysis and monitoring of the civilian environment, study and forecasting the impact of society on the actions of the military. This is what ensures the effective conduct of civil-military cooperation activities in the involvement of international peacekeeping contingents. For NATO, the issue of civil-military relations has





always been important, especially when making political and strategic decisions (United Nations General Assembly, 1992). However, in the late twentieth century, NATO faced the challenge of including a civilian component in military operations. Following the decision in 1992 on NATO's participation in the OSCE and the UN peacekeeping operations, non-military actors began to be involved in peacekeeping operations. The practical implementation of the concept of NATO military-civilian cooperation began in late 1995 and is associated with the deployment of NATO's activities to implement the Dayton Accords (settlement of the situation in Bosnia and Herzegovina) (General Assembly Security Council, 1995).

In the context of the analysis of the understanding of the essence of armies, according to the studied doctrines, the main features of the paramilitary forces of that time are highlighted, namely: the presence of inequality; full subordination to the interests of the political elite; exceptional respect for the army; The "protective" function, which consisted in fighting both external and internal enemies, was often among the latter's own people; separation from the people (Titko, 2021b). The policy of power and authority was a priority in state-building, which is well supported by the statement of A. Pinochet, namely: "I rely on three political forces - land, navy and air" (Centre interarmées de concepts..., 2012).

However, analyzing the interaction of the army and civil society, it is impossible to achieve the truth without understanding the issue of war, which was known to man from the beginning of civilization and accompanied it throughout all historical epochs. It is "war" both in ancient times and today is not only allowed as a phenomenon, but also considered one of the most affordable ways to achieve the desired goal. It should be understood and remembered that military action is both direct and deliberate destruction of the opposite / enemy side. In this context, it is necessary to point out the essence of humanity, which is that war from the beginning is inherent in people because of their natural predisposition. And only in the middle of the 20<sup>th</sup> century the world community tried to "completely" abandon the wars, although their number has not decreased (Titko, 2021b). Having analyzed different historical periods of time, it should be noted that during military conflicts the rights of ordinary citizens were mainly violated, as servicemen, firstly, did not see much difference between soldiers and civilians, and secondly, the priority was the goals, put





before the soldiers, not to protect the rights of the population. In such a struggle, all means were available: betrayal, violence, deception, as claimed by M. Machiavelli (Strauss, 1957). And we must remember that in war people feel fear and it is the main threat to human life. The prohibition of such acts of violence formed the basis of Geneva's law.

Thus, the direct connection between the military and civilian components is visible, but the question of the lack of dialogue between them remains. It should be noted that in our opinion, the problem is as follows: lack of understanding of the protection of human rights and freedoms in the ideology of the Military Organization; lack of understanding of the idea of service in the name of man, not the state as an organizational unit; unwillingness and inability to agree in political circles; inability to set the necessary priorities, where the main role should be played by the human rights protection system; clear demarcation of civilian and military components; insufficient mechanisms for monitoring compliance with the rules of warfare and, most importantly, punishment for violating them; lack of proper education of servicemen in the field of international humanitarian law and protection of human rights and freedoms. Thus, the concept of war in its full sense brings us to the concept of self-defense and self-preservation of everyone. In the context of the latter, the state is the guarantor of security and self-preservation of man and society (Titko, 2021a).

## 3.2 NATIONAL AND INTERNATIONAL SECURITY IN THE CONTEXT OF HUMAN RIGHTS PROTECTION

Study of the phenomenon of security in its historical development shows that the reason for the emergence and existence of public security is the objective need of the social organism for self-preservation from the dangers and threats of the world. In the development of human society, the meaning of "security" expands - from understanding it as the ability of the subject to defend against attack, violence from outside - to neutralize the complex threats to the country, including individuals, society, state in various spheres of life. It is in this sense that national or international security must be seen in the context of the protection of human rights exercised through the state in the face of the military. It is in this context of the twentieth century that a new perception and understanding of





security has emerged, understood as "human security". It included both physical security and "personal security" - economic, social well-being, respect for dignity, protection of human rights and fundamental freedoms. It was at the beginning of this century that human security was defined as security from chronic threats, repression, sudden harmful disruptions in daily life.

The concept of human security had its vision among international organizations that have played priority roles in the system of international security protection, namely the UN, the EU and the OSCE. Thus, in the UNSG Kofi Annan (2000) stated that "in the first place a person should be at the center of everything". The Report VI of the UNSG B. Boutros-Ghali (1992) first mentioned human security, in which the Secretary called for an integrated approach to human security to address the root causes of conflicts covering economic, social and political issues (Titko, 2021a). The EU adopted the European Security Strategy (Council of the European Union, 2003), in late 2003, which indicated that terrorism, violence and frozen conflicts were destroying human lives, fundamental freedoms, human rights and human rights in general. threaten regional stability. A logical continuation of this policy was the adoption in 2004 of a separate "Doctrine of Human Security for Europe" (Glasius & Kaldor, 2005), which is based on pragmatism of actions when human protection is under threat. The basis of the concept of human security, in accordance with EU policy, are 7 guiding principles in this area: the primacy of human rights; clear political power; multilateral cooperation; bottom-up approach; regional focus; use of legal instruments and proper use of force - all of which are aimed at ensuring security through human security policy (Council of the European Union, 2003).

At the same time, the OSCE, as a security organization, was also not separated from the formation of the concept of human security, although it did not have a single integrated document in this area, unlike the EU. As you know, on the basis of the basic documents of the OSCE, the organization operates in the so-called three dimensions, where there is a sphere of human security: military-political, economic-environmental, human, and its main task is to ensure undivided protection of human rights. Europe. Thus, the main idea of the OSCE, which was voiced at the Istanbul Summit in 1999, where it was stated that we need the contribution of a strengthened OSCE to overcome the risks and problems facing the OSCE region, to enhance human security and thus, to change a





person's life, which is the goal of all efforts. Thus, it can be stated unequivocally that in the 20<sup>th</sup> century the world community has come to rethink the concept of security in its classical sense, bringing it closer to humanity, pointing to the following conclusions: there is a need to create new approaches to security (or provide the minimum necessary for life and human activities), which are not similar to the traditional emphasis on the security of states; so far the concept of personal security has not been fully formulated; new security approaches are not substitutes for traditional concepts of national and international security, but underlie the construction of other types of security or additions to them; the concept of personal security integrates the sphere of development and security; the emergence of the human factor in international security is a reaction to the transformation of the world system, transnationalization, greater human involvement in international life, the emergence of new participants in international relations. As a result of the above, it should be emphasized that "human security" is a new paradigm of security, which is focused on the protection of human rights and is directly related to national and international security.

However, the military cannot solve all security problems by force, and today the dialogue between the military and civilians is for the first time reduced to the rank of necessity and parity, where the line of interaction is man-state-man-military forces, and remember that the state and the activity of military forces - for man, not vice versa (Titko, 2021b). The first practical formation and use of CIMIC forces took place in the second half of the 20<sup>th</sup> century in the context of the settlement of the Yugoslav conflict, where the activities of international forces of the UN, NATO, EU, OSCE took place. It was then that the Alliance came to the conclusion that the use of military force was not the main factor in achieving the goal, so it was necessary to attract new non-military members. In this context, the civilian element acts as a prototype or indicator of communication with the person, which allows the military to study in more detail the situation that has developed, both at the national and international levels. After all, it is the civilian element that is the subject of protection and is a component that can provide assistance, both in peacetime and in wartime, in solving existing problems.

During the conflict in the Balkans, the following international forces operated: UNPROFOR, UNPREDEP, IFOR, SFOR, KFOR, AFOR, etc., in which civil-military





cooperation became part of the main operations in the context of rapprochement of civilian and military parties. The main practical tasks of the forces of that time were: support of the civilian population; providing the necessary assistance; demining of some areas and facilitation of access to such areas by humanitarian workers; providing the necessary information to the operations command about the activities of, for example, public organizations; restoration of civilian infrastructure, establishing contacts with local authorities, receiving complaints from the local population about the actions of servicemen in missions, holding meetings with local humanitarian organizations, etc. All this served to develop the general doctrine of CIMIC, which became the Directive of the NATO Military Committee No. 411, adopted in August 1997, which defined that CIMIC is a military operation main task of which is to support civilian authorities, the population, international organizations, which will promote realization of military goals. Thus, it was a small experimental step with its positive experience, shortcomings and confirmation of the need for such forces (Titko, 2021b).

### 3.3 GENDER ISSUES IN THE ARMED FORCES OF UKRAINE THROUGH MILITARY-CIVIL COOPERATION

During the Cold War, when talking about international security, most people meant wars between countries, armaments and physical violence. Many of the major global security threats that marked the end of the twentieth century and the beginning of the twenty-first century did not fit this pattern. Conflicts typically involved large numbers of non-state armed groups. The main security concerns have been terrorism and extremist violence, health crises, natural disasters, cybercrime and climate change. Dissatisfaction with traditional, state-oriented definitions of security has led to the emergence of an additional concept of "human security." This helped shed light on the links between the various forms of insecurity. For example, climate change (threat to environmental security) can lead to drought, which will lead to famine (health security) and loss of livelihood for farmers (economic security). When people migrate in response to climate change, it can create tensions with new host communities (community safety) and expose people to a





higher risk of violent crime (personal safety). These threats, alone or in combination, can in turn threaten national security (Watson, 2020).

Situations of armed conflict and state instability affect women, men, boys and girls in different ways. Thus, gender conflict analysis should identify differentiated risks for women and men, and understand how these risks differ between different groups of women and men depending on social class, race, disability, poverty level, ethnicity, religion, sexual orientation., age and other markers of difference (so-called "intersectional" analysis).

An example of this is the gender analysis of the El Salvador civil war between 1979 and 1992. Then many men left their homes to fight or avoid the threat of genocide and murder. This raised many women to the role of head of the household. As a result, women have become increasingly involved in civil society movements, demanding that the government address economic problems, respond to human rights violations, and amend laws that discriminate against women. Some women held armed positions in insurgent movements. The war was undoubtedly a catalyst for women's empowerment, but at the cost of placing a great additional burden on a woman's physical and economic well-being. Despite the presence of women commanders at the peace table, the subsequent Chapultepec peace agreements did not seek to achieve gender equality or discriminate against women. Today, women in El Salvador face levels of homicide and sexual and domestic violence that exceed the level of violence during the conflict, largely because the perpetrators, including family members, are capable of committing them with impunity. These acquired violent traits are a legacy of conflict (Webster et al., 2019).

Effective democratic civilian control over the security and defense sector is a hallmark of a modern democracy. In 2020, the main theme of the joint project of the Ministry of Defense of Ukraine and the OSCE is equal rights and opportunities for women and men in the armed forces. In 2000, the UN adopted Resolution 1325, which states that women and men have different experiences of conflict, different needs after the conflict, different views on the causes and consequences of the conflict, and different contributions to the peace process (United Nations Security Council, 2000). Council adopted a number of other resolutions on women and conflict, including the Women's, Peace and Security Agenda. Objectives of the Women, Peace and Security agenda: to promote gender







equality and strengthen women's participation in all aspects of conflict prevention, peace processes, peacekeeping operations and peacebuilding; improve the protection of women in conflict situations and end sexual violence and impunity for these crimes; ensure that international participation in conflict situations takes into account the specific needs of women and improves the protection of women's rights.

International organizations have accumulated rich experience in civil-military cooperation in the area of military and armed conflicts, in particular with a view to gender policy. Gender was included as one of the goals of the annual NATO Command and Staff Virtual Crisis Management Exercise "CMX-2015". The NATO-Ukraine Annual National Program for 2018 contains a section on Gender Equality. Gender perspectives for the NATO-Ukraine partnership include the creation of an environment that will allow gender advisers to engage with local people and defense forces in national, multinational and other operations, including those led by NATO. A number of countries, in particular Sweden, which has made significant progress in achieving gender equality, are ready to join the process of training the Ukrainian military in the implementation of gender equality standards (Strebkova, 2018).

Carrying out the planned measures, if implemented comprehensively, will significantly accelerate the process of gender equality in the army and change the nature of this environment from a purely male to gender level. Directly in military affairs, this will enable women on an equal footing with men to make an important contribution to the overall capabilities and effectiveness of the assigned tasks. Thus, taking into account the gender component in the functioning and development of the Armed Forces of Ukraine will help increase the efficiency of their activities (Vavilova, 2016).

### 3.4 THE CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS IN THE ASPECT OF CERTAIN ISSUES OF CIVIL-MILITARY COOPERATION

In the context of considering the topic of the article, attention should also be paid to the case law of the European Court of Human Rights, in particular in the aspect of certain issues of civil-military cooperation, in particular, gender. According to the circumstances of the Case of Konstantin Markin v. Russia (2012) The applicant, a





serviceman, complained to the European Court of Human Rights about the authorities' refusal to grant him childcare leave on the grounds that he was a male. The applicant alleged that the refusal to grant him childcare leave was tantamount to discrimination on grounds of sex; while he referred to Art. 14 of the European Convention on Human Rights, 1950 (Convention) in conjunction with Art. 8 of the Convention (Council of Europe, 1950). At one time, challenging this refusal, the applicant even complained to the Constitutional Court of the Russian Federation about the inconsistency of the provisions of the Law on the Status of Servicemen concerning the granting of childcare leave with the constitutional provision on equality between women and men. The Constitutional Court refused to accept the complaint for consideration.

The European Court of Human Rights has noted that the state may impose certain restrictions on the rights of servicemen if there is a real threat to the combat effectiveness of the armed forces, as the proper functioning of the army can hardly be imagined without legal rules to prevent its undermining by servicemen. The Court clarified, however, that national authorities could not invoke such rules to deprive individual members of the armed forces of their right to respect for their family or private life, which could be applied to servicemen to the same extent as to other persons, which are under the jurisdiction of the state. The European Court of Human Rights considers that very good reasons are needed to justify the difference in treatment between male and female servicemen in this particularly important area of family life, concerning the relationship between parents and their newborn children (Case of Konstantin Markin v. Russia, 2012). Thus, the ECtHR emphasizes the need for the absence of any gender discrimination for servicemen in the exercise of their natural rights, as in this particular case, the exercise of the right to the family. The court confirmed that, regardless of gender, a serviceman has the right to a child's upbringing and care leave.

In the context of the study of the interaction of civil and military components in the practice of the ECtHR, it is worth paying attention to the case of Hanan v. Germany (2021). The case concerned an air strike in Kunduz, Afghanistan, ordered by a colonel of the German contingent of the International Security Assistance Force (ISAF), commanded by NATO. The air strike was aimed at two fuel tanks that were believed to have been captured and surrounded by insurgents, but were in fact surrounded by civilians. The air strike killed





91 civilians, including the applicant's two sons, and injured 11 civilians. The applicant alleged that the German investigations into the deaths of his sons had violated the requirements of the investigative component of Art. 2 of the European Convention on Human Rights (Council of Europe, 1950) on the right to life.

Under the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Force (1951), Germany retains exclusive criminal jurisdiction over its troops stationed with ISAF for serious crimes. It was obliged to investigate any serious crimes committed by its troops in accordance with international humanitarian law and domestic law. On this basis, the Grand Chamber ruled that there were "features" that provoked the existence of a jurisdictional link for the purposes of Art. 1 of the Convention (Council of Europe, 1950) concerning the procedural obligation to investigate under Art. 2. The applicant's claim is not satisfied on the merits. The Chamber noted that the Federal Constitutional Court of Germany had reviewed the effectiveness of the investigation into the applicant's constitutional complaint. He noted that since the Federal Constitutional Court had been able to quash the Federation Prosecutor General's decision to discontinue the criminal investigation into the colonel, the applicant had had a remedy allowing him to challenge the effectiveness of the investigation.

The recognition of jurisdiction in this case is significant and represents a significant step in the development of international jurisprudence concerning the extraterritorial effect of human rights obligations by States where those States are operating abroad or deploying troops. However, the applicant concerned about jurisdiction only for the violation of the procedural part of the right to life, and not for the substantive part, which is a violation of this right. In its conclusion, the ECHR reaffirmed that, aside, a State does have jurisdiction and an obligation under the Convention to investigate acts that led to death if international humanitarian law and domestic law required it to do so (Case of *Hanan v. Germany*, 2021).

## 4 CONCLUSIONS





Thus, CIMIC are ways and methods of working to achieve common interests and goals at different levels of interaction and relations between civilian and military forces. Such interaction is a necessary force in the conditions of military mission, operation; works in crisis (peace and war) periods; in the protection of civilians and plays a priority role in the system of measures (cooperation, interaction, coordination, etc.) as a structured military unit (force) with the civilian population, local executive bodies, local governments, international and non-governmental organizations, in order to create favorable conditions for the performance of tasks of daily activities of troops (forces), their training and operations, providing the necessary assistance to the local population to protect their rights and interests in a crisis situation.

Civil-military cooperation covers all types of relations between the military component and the civilian sector in peacetime or in times of conflict and is carried out with the aim of establishing the cooperation and coordination necessary to support and carry out the military task. Often the lack of such interaction has a negative impact on all participants in the conflict zone. Therefore, CIMIC centers are considered a necessary and sometimes extremely important tool in the overall structure of civil-military cooperation.

Gender mainstreaming in military operations is logical in terms of increasing justice and efficiency. The ability to implement a gender approach at all levels of military operations increases with the number of women in international operations. Efforts are urgently needed to involve women in the armed forces and to encourage them to serve for a long time. These efforts should be aimed at minimizing prejudices and creating conditions for women's career growth, which includes: the formation of heterogeneous personnel, including a sufficient number of female employees, promoting a climate of cooperation; providing equal conditions for the performance of official duties; ensuring access of minority representatives to leadership positions. As a result, this will lead to an increase in the number of women working in the civil service, thus increasing the human resources reserve for international operations. In addition, the armed forces of States will need to make changes so that their structural, functional and cultural organization provides a level playing field for the success of both men and women. There is a need to integrate a gender approach into the diverse education and training of military personnel.





But without the full support and approval of senior management, these goals will not be achieved. In view of this, it is necessary, first of all, to integrate the gender perspective into the work programs on which the training and education of servicemen is based.

Global experience of gender mainstreaming in the military environment can be defined in the form of modern strategies for women's integration into the army at four levels: political (defense concept revision, defense democratization, public control and government control), economic (gender budgeting and shaping), transparent accountable public financial management), institutional (structural and technical transformation of the Armed Forces, which will allow them to meet accepted national and international standards), social (gender mainstreaming reflects changes in the attitude of civil society to the Armed Forces and promotes cooperation between them). The case law of the European Court of Human Rights is also aimed at protecting gender equality in the armed forces and in the field of civil-military cooperation. The cases underlined the inappropriateness of discrimination against both men and women in any field and stressed the need to integrate international standards on equality.

## 5 RECOMMENDATIONS

First of all, at the strategic level, the gender perspective, the provisions of the UN Security Council Resolution 1325 and other resolutions that in one way or another address the issue must be taken into account in the mandate of operations on a legal basis, and a clear political definition of goals. At the strategic level, their implementation is also monitored. Many conditions of women's service in the armed forces are determined at this stage, as this is where the policy of recruitment and retention is formed. Also, the strategic level plays a key role in determining the principles of creating codes of conduct for servicemen. Leaders at this stage can influence subordinates to convince them that illegal behavior, such as sexual exploitation and violence against civilians, as well as sexual harassment within military units, is morally and ethically unacceptable.

At the operational level, strategic political goals are transformed into military tasks and form the core of the military profession: operational planning. The planning process related to the mandate should combine analysis of gender factors, operational





environment and specific forces. This will affect the military's planning of tasks related to, for example, the study of the situation, intelligence gathering, information exchange, mission analysis and information transfer, and interaction with the civilian population. This will assess the adequacy of existing structures and powers in the armed forces, which in turn may change the recruitment procedure, grouping and provision (for example, ensure that the needs of all personnel are met regardless of gender), as well as to influence the content of education and training of personnel. At the tactical level, gender is important in day-to-day operations. To understand the security needs of the civilian population, it is necessary to understand the differences in the conditions and contexts of men, women, girls and boys in the area of operations.

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