

Gaps in the Military Law of Ukraine: Analysis of International Experience and Recommendations for the Regulation of the Armed Forces of the Country

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Abstract

The purpose of the research is to analyse the current legislation of foreign countries in the field of crime prevention in the armed forces sector. The research uses method of logical analysis, formal-legal analysis, legal hermeneutics, dogmatic analysis, deduction, induction. In the course of the research, it was analysed the current military legislation of Ukraine and foreign experience in combating offences committed by military personnel. It was highlighted that depending on the legal approaches and military doctrines adopted in different countries, offences in this category are regulated by different approaches. The practical significance of the results obtained is to provide recommendations that will help improve the efficiency of the functioning of Ukraine's military law, in particular, in the context of the full-scale aggression of the Russian Federation.

Keywords: National security, Full-scale invasion, Public interests, State system, Foreign legislation, Countering threats.

Introduction

National security is the main area of state activity designed to protect society and the state from various external and internal threats. It serves as an indicator of the state of society and the state where the most significant social and legal values are protected. The Armed Forces of Ukraine (AFU) are the military forces tasked with defending Ukraine, ensuring its sovereignty, territorial integrity and inviolability. The AFU's activities are focused on preventing and repelling military aggression against Ukraine, protecting the airspace and underwater space within the territorial sea of Ukraine, and participating in activities designed to counter terrorism. Since the beginning of the large-scale invasion of Ukraine by the Russian Federation (RF), the AFU servicemen and women have been leaving the country's borders in a

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state of defence. Even though most servicemen and women consciously and honestly perform their duties, there are cases of military crimes committed in the AFU, such as desertion, unlawful leaving of military units or places of service, refusal to obey orders. This is particularly true of situations in which they find themselves while performing military service. Therefore, in the current conditions of full-scale aggression, it is quite relevant to analyse the current legislation for conflicts and compare it with international experience to identify recommendations for combating crime in the AFU.

According to V.V. Emelianenko and K.M. Orobets (2022), in the current globalisation environment, ensuring national security is becoming one of the necessary conditions for preserving the integrity of the territorial character and sovereignty of the state. S.H. Onoprienko (2021) believes that national security reflects the state of domestic and international relations, which determines the effectiveness of the system of guarantees of the state, legal and social plan, human and civil rights and freedoms in the context of possible threats. Appropriate provision of national (state) security is one of the main priorities of the activity and development of each state. M.I. Smyrnov (2023) writes that for Ukraine this task has become especially important due to the invasion of the Russian armed forces and the outbreak of an undeclared war. S.V. Vasyliiev and S.A. Maliar (2022) believe that one of the main purposes of this military aggression of the Russian Federation was to undermine the state sovereignty and democratic constitutional order of Ukraine through the appointment of persons controlled and managed by Russia to the highest state positions to implement national policies that would meet the interests of the Russian Federation; this aggression involved interference with the territorial integrity, using scenarios that were already tested in 2014 with the separation of Crimea, Donetsk and Luhansk regions.

M.V. Belanyuk and O.V. Kostenko (2022) express the position that this situation has established serious threats to national security, adding to the existing ones new ones, unprecedented in peacetime, which threaten citizens, state sovereignty, territorial integrity and democratic constitutional order, and other aspects of life. In these circumstances, Ukraine was forced to take all possible measures to repel military aggression and protect state sovereignty, which resulted in the need to improve some components of the security sector in the country. The implementation of this purpose and the performance of various tasks to ensure the security of the state, its interests and its citizens is possible if there is proper legislative regulation of various mechanisms (Shynkar et al., 2023). The national security and defence policy is effective when a combination of factors is functioning successfully; for this purpose, a legislative framework characterised by stability, balance, consistency and efficiency is a necessary component (Shynkar, 2023). This

framework should both regulate existing social relations and establish the foundation for their further improvement (Tomashevski & Yaroshenko, 2020; Kharytonov et al., 2021). For each state, the issue of an appropriate level of national security is always one of the main tasks (Sannikov, 2017; Vartylets'ka & Sharmar, 2021). To achieve this, mechanisms are being implemented to respond to possible threats in the areas of security, territorial structure and other important state interests of Ukraine.

The search for solutions to counter different levels of threats and their neutralisation through legal mechanisms is the task of the national (state) security system and should be performed in coordination and cooperation with the legislature and all actors of the security and defence sector. In particular, it applies to the improvement of military legislation, namely in the area of prevention and punishment of war crimes. With this in mind, the purpose of the research is to analyse possible ways and means of solving the problems of the current legal framework. In particular, it is important to analyse the legislation of Ukraine and several foreign countries and identify the most effective legal mechanisms for their further implementation.

Materials and Methods

This research was performed by using different types of analytical methods. The method of functional analysis was used to characterise military law. This method allowed considering the object of research from different perspectives and determining its functions, roles, and interrelationships with other concepts and phenomena. Thus, it helped to define the main functions of military law, analyse the relationship of military law with civil law and international humanitarian law, and gain a deeper understanding of the essence of the concept of military law and its role in the modern world. In turn, the method of logical analysis was used in the research to determine the current state of military law in Ukraine, including legislation, rules and regulations governing military activities and behaviour of military personnel, identification of key aspects of military law in Ukraine, rights and obligations of military personnel, and the legal status of the Armed Forces. The method of statistical analysis helped to explore the data demonstrating the level of registered military criminal offences by servicemen over the years, to characterise them according to the provisions of the Criminal Code of Ukraine (CC) (2001) and to assess the current indicators. In addition, the method of comparative legal analysis was used, which allowed comparing the law-making practice of military law in Ukraine and several foreign countries, namely Germany, France, Israel and Japan.

The formal-legal method was used to explore the texts of legal provisions, their structure and internal relations to determine the exact legal content and interpretation, to identify logical sequences and connections between different parts of a legal act to establish its legal essence, to explore the texts of laws, resolutions, decrees and other

legal regulations to clarify their content and consequences (Yaroshenko et al., 2019). This method helped to analyse various aspects of military law in certain countries. In particular, it helped to determine the content of the provisions regulated by such legal regulations as the Law of Ukraine No. 2232-XII “On military duty and military service” (1992), the Basic Law for the Federal Republic of Germany (1949), the Constitution of France (1958), The Defence (Emergency) Regulations (1945), Penal Code No. 45 (1907), and the Constitution of Ukraine (1996). The dogmatic method was used to analyse and interpret the main dogmas and principles of military law in Ukraine and several foreign countries, to uncover the interrelationships between them and their impact on the regulation of military activities, behaviour of military personnel and other aspects of military law. The method of legal hermeneutics provided an opportunity to analyse and understand the texts of military legislation, documents and rules relating to military activities in a particular country, and to draw accurate legal conclusions about their content and application. The method of deduction helped to characterise the current state of military law in Ukraine based on the disclosure of this concept, and analysis of the main principles and features. In turn, the method of induction, based on the research of the current legislative framework, allowed evaluating of the role and place of military law in the current conditions in Ukraine.

Results

Russia’s armed aggression threatens Ukraine’s existence as an independent democratic state. Notably, it exposes deficiencies in military and criminal legislation that undermine the country’s national security. Therefore, the urgent problem of modern times is to improve domestic legislation to eliminate these gaps. The classification of military criminal offences is related to using other branches of legislation, as the *corpus delicti* of these criminal offences are general (Tacij, et al., 2014; Maurer, 2020). A characteristic feature of such general provisions is that they directly or indirectly refer to the provisions or their components of other legal branches that do not expand the scope of the criminal offence but only specify the signs of this offence; it is usually considered during the classification.

The subjects of military criminal offences defined in Chapter XIX of the Criminal Code of Ukraine (2001), except for persons liable for military service and reservists during conscription, are servicemen of the AFU and other military units defined by law. Since a serviceman is a special subject of a criminal offence, in addition to the general characteristics of the subject, he must have special (specific) characteristics that allow him to be a perpetrator (co-perpetrator) of any military criminal offence (White, 2022). One of these features is the legal stay in the relevant unit of the military organisation of Ukraine during the commission of a criminal

offence. This legitimacy of obtaining the status of a serviceman and performing military service allows qualifying the actions of a person under any article of Title XIX of the Criminal Code of Ukraine (2001).

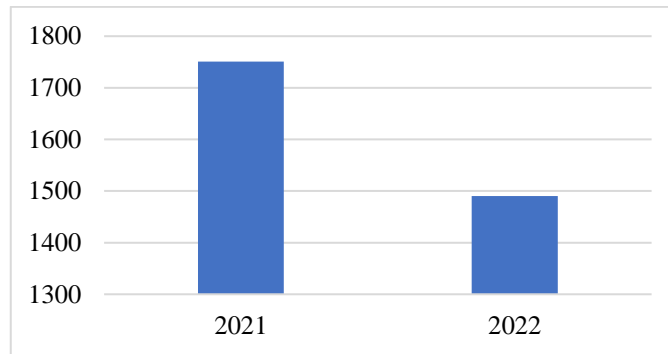
During the performance of their professional activities and the allocated time, servicemen interact with the state in relations that have mutual rights and obligations. To analyse the composition of a military criminal offence from its perspective, the following components can be distinguished: subjects of social relations – the state through an authorised body or a commander (chief) and a serviceman; the subject of social relations – military service and social relations between these subjects, related to the procedure of military service and regulated by legal acts. Notably, the legal status of a serviceman has limits – the beginning and end of military service. During this period, a serviceman is obliged to perform professional duties, has specific rights, holds a specific position and meets the requirements of military legislation. In this context, they may be the subject of a military criminal offence.

Notably, only a serviceman who is in military service can be a subject of military criminal offences. Article 24 of the Law of Ukraine No. 2232-XII “On Military Duty and Military Service” (1992) establishes cases when military service is suspended, such as unauthorised abandonment of a military unit, desertion and voluntary surrender. In such cases, the serviceman is dismissed from the position and the provision of financial and other support is suspended. The term “suspension” refers to a temporary suspension that deprives servicemen of their rights and relieves them of their duties about military service. Servicemen whose duties are suspended do not receive credit for this period of service, rank, seniority, service allowance or pension. Accordingly, they are not covered by any guarantees of the social plan provided for by the applicable law. Persons whose military duty is suspended are not considered to be part of the Armed Forces of Ukraine or other military forces.

According to this provision of the Law of Ukraine No. 2232-XII “On military duty and military service” (1992), notably, in case of criminal offences, such as desertion and voluntary surrender, the state may, on its initiative, suspend a person’s military duty and deprive them of their connection with military service. Even though the law defines only the beginning of the suspension of military duty as the day of entering information into the Unified Register of Pre-trial Investigations based on an application or notification of the commander (chief) of a military unit about a criminal offence, this may establish a conflict regarding the status of the person who committed the criminal offence and lead to ambiguity regarding the recognition of these persons as subjects of criminal liability (Spytska, 2023a). In this case, it is advisable to revise this law to define the term “suspension of military duty” to avoid problems in determining the status of a serviceman after committing criminal

offences. Particular attention should be paid to the statistics of convicted servicemen for military criminal offences in 2021-2022 (Figure 1).

Figure 1: Number of convicted servicemen for military offences in 2021-2022



Source: *How and for what... (2023)*.

Thus, it can be concluded that in 2022, there were 14.9% fewer convictions compared to 2021. Notably, the activities of the military prosecutor's office were hampered by the full-scale aggression. However, it is advisable to analyse the offences for which most servicemen were convicted according to the provisions of the CC (Table 1).

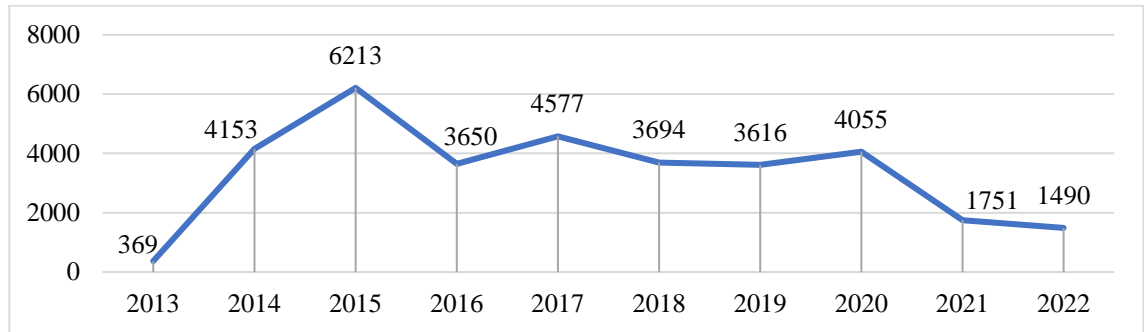
Table 1: Number of persons convicted of specific war crimes in 2021-2022

Offence	Number of convicted persons in 2021	Number of convicted persons in 2022
Disobedience (Article 402 CC)	9	155
Resisting a superior (Article 404 CC)	0	2
Threat or violence against a superior (Article 405 CC)	11	31
Violation of statutory rules of relations between military personnel (Article 406 CC)	27	18
Unauthorised leaving of a military unit or place of service (Article 407 CC)	1407	1036
Desertion (Article 408 CC)	220	154

Evasion of military service by self-mutilation (Article 409 CC)	8	19
Abduction, appropriation of weapons by a serviceman (Article 410 CC)	21	16
Reckless destruction or damage to military property (Article 412 CC)	1	1
Loss of military property (Article 413 CC)	17	14
Violation of the rules for handling weapons (Article 414 CC)	8	23
Violation of the rules of border guard duty (Article 419 CC)	0	2
Disclosure of military information constituting a state secret (Article 422 CC)	1	3
Negligent attitude to military service (Article 425)	5	5
Abuse of power or authority by a military official (Article 426-1 CC)	5	3
Unauthorised abandonment of the battlefield or refusal to use weapons (Article 429 CC)	0	6
Insult to the honour and dignity of a serviceman (Article 435-1 CC)	0	2

Source: *How and for what...* (2023).

This data demonstrates that, compared to 2021, the statistics of offences decreased, in general, but increased for some offences. In particular, there has been an increase in the number of cases of such unlawful acts as disobedience, threats or violence against a superior, evasion of military service by self-mutilation, violation of the rules for handling weapons. The dynamics of offences in the period 2013-2022 are particularly significant (Figure 2).

Figure 2: Number of military criminal offences in 2014-2022

Source: *How and for what... (2023)*.

Based on the above data, notably, in 2014 the number of military criminal offences committed in the AFU totalled 4153 cases, which is more than 11 times higher than in 2013 – 369. It can be directly connected to the Russian attack and separatist activities of some citizens in the occupied territories, including military personnel. In subsequent years, the dynamics were mostly downward due to some reform measures within the system itself. In the period from 2014 to 2022, the total number of military criminal offences in the Armed Forces of Ukraine was more than 33 thousand, which is a rather high figure. The development of a crime prevention system in the AFU requires an analysis of the experience of countering violations by military personnel of the armed forces of other countries to explore the possibility of introducing some elements of these foreign systems into the Ukrainian system.

Therewith, it is essential to explore ways to solve the problem of ensuring military order in the armed forces of foreign countries. Despite the common features, counteracting violations of military personnel in the armed forces of foreign countries has national specifics. For example, in the Federal Republic of Germany (Germany), the prevention of crimes by military personnel is regulated by the Constitution and several bylaws. The German armed forces distinguish between primary, secondary and tertiary prevention. The first is designed to overcome the lack of sociality and the development of a positive legal consciousness as the main sources of crimes committed by servicemen, the second is already part of the military justice system, providing legal means of deterring crimes, and the third includes preventive measures and means (Maurer, 2021). Two types of disciplinary sanctions are applied to those servicemen who have committed acts of unlawful conduct that do not constitute crimes: simple sanctions and sanctions imposed by a court. Disciplinary measures are applied to servicemen in cases of violation of internal order. In the event of a serious violation of military order, punishment is mandatory. For violation of the

rules of military discipline, servicemen may be subject to reprimand, strict reprimand (officially announced in the presence of the unit), disciplinary sanctions, restriction of leaving the location of the unit (prohibition to leave the barracks without permission or enter other barracks), restriction of visitors for a period of 1 day to 3 weeks, disciplinary arrest (temporary deprivation of liberty with further involvement in service for a period of 3 days to 3 weeks). Cases of violations may constitute criminal offences (for example, using a company car under the influence of alcohol, which leads to an accident).

A system of law enforcement agencies to deal with misconduct by servicemen is in place and has been established. For example, the highest military legal authority is the Department of Service Affairs, Law, Judiciary and Military-Church Affairs, which includes military courts and tribunals, consultants at the headquarters of associations, units and other institutions, and law professors at military educational institutions. In addition to the military leadership, the first-instance military disciplinary courts and other courts of military tribunals are responsible for countering violations by servicemen (Basic Law for..., 1949).

In the French Armed Forces, the prevention and response to offences by military personnel is implemented both through general and administrative judicial authorities and through specialised state courts for cases related to military service. The main principle of the discipline control system is the daily activities of the French military authorities, which have the authority to bring servicemen and women to disciplinary and criminal responsibility for violations and to provide incentives for achievements during service. Servicemen who commit offences can be held accountable, except in some situations: when they commit professional misconduct that may lead to their dismissal on various grounds (full, temporary, partial or final); when they are removed from the lists for professional development; when they are temporarily dismissed (Constitution of France, 1958). In cases of breach of duty or negligence during service, they may be subject to disciplinary sanctions. The same type of violation may result in different types of sanctions depending on its nature and severity. Sanctions may include disciplinary sanctions, professional sanctions, sanctions based on military status, or even criminal penalties. A disciplinary sanction is not exempt from criminal liability for the offence, and refusal to take the offence to court is not an obstacle to the imposition of a disciplinary sanction. It applies to situations where charges are brought in court or criminal proceedings are completed. A severe reprimand is issued for serious or particularly serious violations. A strict arrest is imposed for very serious offences. Servicemen and women who have received a strict arrest are temporarily suspended from service in the unit and held in custody. These measures are applied according to the seriousness of the offence and are intended to ensure discipline and order in the armed forces (Grimm, 2021).

In Israel, the specificity of ensuring military law and order and discipline in the Israeli Armed Forces (IDF) is the practice of using informal disciplinary measures in the form of strenuous exercise (The Defence (Emergency) Regulations, 1945). Using physical punishments, including strenuous exercise, for soldiers who violate the rules has no legal foundation in regulations, but is a common practice among sergeants. Disciplinary measures that are not provided for by military law include banning from the gym or requiring a line of text to be written one hundred times to emphasise the need to report to the unit on time (Shynkariuk, 2022). If such violations are detected, army prosecutors cancel them and replace them with legal measures (Spyska, 2023b). The IDF's system for dealing with offences has other peculiarities: commanders are required to consider disciplinary complaints from their subordinates within 7 days of their receipt. However, in practice, this provision operates as a recommendation, and its violation does not lead to any legal consequences.

In the military and criminological aspects of the criminal policy of modern Japan, the priority is to prevent any violations by military personnel. This activity of the state is based on the understanding of crime prevention as a system of measures for its control, which is recognised in modern Japanese legal science. In Japanese criminological theory, the objects of crime prevention are defined both as crimes in their criminal law aspect and as a group of phenomena that harm legal interests. To maintain the behaviour of military personnel, the law enforcement agencies of the Japan Self-Defence Forces use a comprehensive approach, including the concept of "delinquency"; using this concept is designed to apply educational measures to military personnel (Penal Code No. 45., 1907). Measures to prevent the primary criminality of servicemen are divided into the following categories: intended for the entire Japan Self-Defence Forces or specific groups of servicemen; intended for specific individuals who have reason to believe that they may commit a crime due to their personality, conditions of service and environment; measures aimed at maintaining military order. In the area of social control, military collectives interact directly with servicemen whose behaviour is of concern, expressing their adverse opinions about them, issuing warnings and following national traditions adapted to modern conditions.

Thus, in modern conditions in the armed forces of foreign countries, combating offences of servicemen is distinguished as an extremely effective means of preventing their criminality. Countering offences by servicemen in the armed forces of most foreign countries involves a set of measures performed by military justice authorities and authorised persons designed to increase the mobilisation preparedness of military units in the performance of various administrative functions, establish disciplinary control, conduct inquiries, investigations, education and training of servicemen. Using this experience to improve the effectiveness of combating

offences committed by servicemen is an essential element in reducing crime in the AFU.

The following recommendations should be highlighted that provide an opportunity to regulate the current legislation in Ukraine to counter war crimes: to amend the Law of Ukraine No. 2232-XII “On military duty and military service” (1992) to amend the definition of the term “suspension of military duty” to avoid problems in determining the status of a serviceman after committing criminal offences; to establish a separate body that will be responsible for investigating and combating war crimes; to introduce primary, secondary and tertiary prevention of military offences; to introduce provisions stating that a disciplinary sanction does not exempt from criminal liability for a crime, and refusal to take a case to court is not an obstacle to imposing a disciplinary sanction; to restore the military justice system that operated in Ukraine from 1991 to 2012. Further research will focus on the analysis of war crimes committed by the Russian Federation during the full-scale invasion of Ukraine.

Discussion

In today’s Ukrainian jurisprudence, the analysis of military law issues is of particular significance. It is mainly conditioned upon the reform of the systemic nature of the security and defence sector of Ukraine, which is being implemented to solve specific tasks to ensure the territorial integrity of Ukraine from armed aggression. Currently, Ukraine lacks the military justice system that existed during the period of independence from 1991 to 2012. In addition, there is no positive situation in the area of military law. However, since the beginning of the conflict with the Russian Federation, the number of servicemen of the Armed Forces and other military units that joined the defence against armed aggression has increased significantly; for example, in 2013, the Armed Forces numbered 166 thousand people, since 2014, as a result of Russian aggression, this number has increased to about 250 thousand people, and as of May 2022, there were about 700 thousand people in all security forces in Ukraine (Boyd-Barrett, 2023; Pylypenko et al., 2023). In addition, the sphere of military legislation has been significantly enriched by numerous laws and bylaws that regulate a variety of social relations in this area. As a result, there is a legal imbalance between the functioning spheres of military administration, practice, legislation and military legal science. This situation can be caused by various reasons, such as the Russian side’s intelligence and subversive activities aimed at destroying key institutions to weaken Ukraine, or the lack of vision in the policy of the Ukrainian leadership, and possibly both, in the author’s opinion.

According to J. Zhou (2019), in a state governed by the rule of law, democratic civilian control over the military organisation of the state serves as a regulator in

relations between the military and civilian spheres. In addition to the author's position, the basic principles of a democratic society in this context play a key role and determine the principles of military affairs. According to R. Best and G. Vonnahme (2021), it is essential to maintain a balance between the rights of military personnel and control over the performance of their duties. It should be agreed with this position and noted that one of the essential components of civilian democratic control over the military organisation of the state is judicial supervision over the observance of laws in the military sphere. In addition, the observance of human rights is an essential indicator of the level of law and order in society. The greater the compliance with human rights and their effective protection, the higher the level of law and order and legality in the country. Law enforcement agencies and the judiciary play an essential role in this process. Notably, trust in the domestic courts is still insufficient. According to the 2019 public opinion poll conducted by the Razumkov Centre, only 25% of the population in Ukraine trust the judiciary (Results-2019..., 2020).

Ukrainian military law is an integral part of the national legal framework that regulates social relations related to the development, activity and functioning of the armed forces and other military units operating according to the current legislation (Leshchenko, 2023). O.A. Hathaway et al. (2019) note that military law is a component of the public law of any state. However, it should be added that its complex system includes various institutions, such as the law of service, security, internal service law, and military disciplinary law. Military law is in close interaction with other branches of public law by modern realities. According to F. D'Alessandra and M. Gillett (2019), it is a comprehensive regulator of military-public relations. It is necessary to agree with this position; it is explained by the fact that the subjects of these relations include both military personnel and authorised persons and bodies defined by the current legislation. The modern development of military law in Ukraine is based on the principles enshrined in the Basic Law, which defines the duties of citizens and the competence of public authorities in the field of military construction and management of the security and defence sector. In this context, Article 17 of the Constitution of Ukraine (1996) is extremely significant, stating that the most important function of the state is to protect the sovereignty and territorial integrity of Ukraine and to ensure its economic (Petersone et al., 2016) and information (Getman et al., 2020) security.

According to V.H. Asal et al. (2019), if considering modern general legal criteria, it can be distinguished that the definition of the features of military law is based on a reasonable approach. However, it should be added that this requires consideration of the essence of military relations, where the military component is an attributive characteristic necessary for the existence of the military law of Ukraine.

Thus, military character is one of the key features of military law. In addition, it should be considered the position of C. Dandeker (2021), who notes that military relations have a sign of subordination, which determines the imperative nature of military law and is its essential component. In this case, it is crucial to note that military relations are different from civilian relations, as they are mediated by the latter. Therefore, the combination of civil-military relations becomes a defining feature of military law.

Thus, in their analysis, D. Auerswald et al. (2023) noted that the combination of these features determines the special nature of military law. Considering that military law is both a theory and a method, its uniqueness in the system of law of Ukraine lies both in the scientific explanation of military legal relations and in the disclosure of the regulatory and transformational mechanism of functioning of the military and defence sphere of the State at the present stage. Based on this, this branch of law should become not just an instrument but military law in its essential part. This position is justified by the factors that are key and mandatory. In particular, these are military attributes, the essence of modern military conflicts and possible future threats, which determine the areas and content of reforming the Armed Forces of Ukraine. Thus, military law is defined as a reflection of these processes, and everything else is a consequence of this important and decisive fact. It confirms the uniqueness of military law as a system of regulation of military relations.

Notably, the process of military reform requires further development and improvement of legislation related to defence and security. The main purpose is to optimise the part of the government apparatus where military service is introduced, to ensure the military organisation of the state, to democratise internal structures and to ensure the legality of the work of authorised bodies and their officials (Kotsur, 2023). According to M. Tseruashvili (2022), special attention should be devoted to the protection of the rights and legitimate interests of military personnel and their families. As a result of the complete invasion of the territory of Ukraine by Russian troops on 24 February 2022, the issue of the development of military law has become particularly relevant. D. Moran et al. (2019) write that military law has a deep connection with the state, which, although less clear, is characteristic of national security law. This statement should be agreed with, since the existence of military law is explained by the law-making activities of the state, which plays an important role in ensuring defence and military security. Military legal coercion arises exclusively from the state, and its legitimacy in the context of democratic civilian control is ensured by the relevant rules of military law.

Thus, in the current situation, military law is actively progressing as a legal branch. The main areas of its development have been the establishment of an appropriate legislative mechanism for democratic civilian control over the Armed

Forces, the implementation of North Atlantic Treaty Organisation standards and guidelines, and the legitimisation of the protection of civilians by the Armed Forces. The development of this sector enables more effective implementation of the state's defence and security policy.

Conclusions

This research was conducted to analyse Ukrainian and foreign legislation in the military sphere. First of all, there are gaps in Ukrainian legislation, namely in Article 24 of the Law of Ukraine No. 2232-XII "On military duty and military service", which establishes the cases when military service is suspended. Notably, the term "suspension" refers to a temporary suspension that deprives servicemen of their rights and relieves them of their obligations to perform military service. It was proposed to supplement the Law with a definition of the term "suspension of military duty" to avoid problems in determining the status of servicemen after committing criminal offences.

In addition, it was highlighted that the number of military criminal offences committed from 2014 to 2022 is quite high. Considering this, the experience of some foreign countries, namely Germany, France, Israel and Japan, was considered. Notably, combating offences among military personnel is characterised by a high level of efficiency. In most countries, it involves a set of measures performed by authorised persons and military authorities. They are designed to increase the combat and mobilisation preparedness of military units in the performance of various administrative functions, establish disciplinary control, conduct inquiries, and investigations, educate and train servicemen, and systematise military legislation. It was concluded that it would be most appropriate to make some changes to the existing regulations of Ukraine, restore the military justice system, introduce a system of prevention of offences by category. The implementation of foreign experience in the law-making practice of Ukraine provides an opportunity to more effectively counteract war crimes, improve the current system of legislation, and reduce the number of registered offences and the number of convicted persons. Further research will be conducted to analyse the war crimes committed by the Russian Federation during the full-scale invasion of Ukraine.

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