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ДОТРИМАННЯ ГЕНДЕРНОЇ РІВНОСТІ ЯК СКЛАДОВА ЦИВІЛЬНОГО ДЕМОКРАТИЧНОГО КОНТРОЛЮ НАД ВІЙСЬКОВОЮ ОРГАНІЗАЦІЄЮ ДЕРЖАВИ

Анотація. *Аналіз численних наукових публікацій свідчить неабияку актуальність гендерних досліджень на сучасному етапі українського суспільного розвитку, практично у всіх сферах соціальних відносин. Що ж стосується забезпечення паритетної участі чоловіків і жінок у функціонуванні військової організації держави – то реалізація такого гендерного балансу сприяє поліпшенню цивільного контролю над нею завдяки можливості розвитку потенціалу контролюючих органів в гендерних питаннях, сприянню щодо налагодження діалогу між спільнотою та органами контролю, залученню уваги громадськості до проблем підвітності інститутів даної організації. Основною метою даної роботи є висвітлення стану дотримання гендерної рівності у військовій організації держави через призму здійснення цивільного демократичного контролю. Визначено стан законодавчого урегулювання поняття військової організації держави та цивільного демократичного контролю. Проаналізовано запровадження гендерної перспективи в Україні в досліджуваній проблематиці та динаміку встановлення гендерного балансу у військовій організації держави; вплив на наявні тенденції законодавчих ініціатив. Констатовано, що сучасна українська армія більшою мірою є «чоловічою», жінки хоч і допускаються до військової служби, однак участі у прийнятті суспільно важливих рішень не беруть, високих військових посад не займають, кар'єрне зростання для них утруднене. Зазначено основні проблеми реалізації гендерної рівності в Збройних силах України та інших структурах Сил оборони України, які більшою мірою ґрунтуються на суспільних стереотипах заздалегідь визначених ролей для чоловіків і жінок. Охарактеризовано цивільний контроль над збройними силами як соціально-політичний процес в даній сфері*

Ключові слова: *гендер, цивільний демократичний контроль, воєнна організація, гендерний баланс, Збройні сили, військовослужбовці*

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RESPECT FOR GENDER EQUALITY AS A COMPONENT OF CIVILIAN DEMOCRATIC CONTROL OVER THE MILITARY ORGANISATION OF THE STATE

Abstract. *The analysis of numerous scientific publications demonstrates the great relevance of gender studies at the current stage of Ukrainian social development, in almost all spheres of social relations. As for ensuring equal participation of men and women in the functioning of the military organisation of the state, the implementation of such a gender balance contributes to improving civilian control over it through the possibility of developing the capacity of regulatory bodies in gender issues, promoting dialogue between the community and control bodies, and drawing public attention to the problems of accountability of institutions of this organisation. The main purpose of this study is to highlight the state of gender equality in the military organisation of the state through the lens of civilian democratic control. The study determined the state of legislative regulation of the concept of military organisation of the state and civil democratic control. The study analysed the introduction of a gender perspective in Ukraine in the subject matter and the dynamics of establishing a gender balance in the military organisation of the state; the impact on existing trends of legislative initiatives. It is stated that the modern Ukrainian army is mostly “male”. Despite the fact that women are allowed to serve in the military, they do not take part in making socially important decisions, they do not hold high military positions, and career growth is challenging for them. The study identified the main problems of implementing gender equality in the Armed Forces of Ukraine and other structures of the Defence Forces of Ukraine, which are more based on social stereotypes of pre-defined roles for men and women. Civil control over the Armed Forces is described as a socio-political process in this area*

Keywords: *gender, civil democratic control, military organisation, gender balance, Armed Forces, military personnel*

INTRODUCTION

Over the past decades, international and regional organisations and states have adopted numerous regulations and commitments to ensure gender equality and the inclusive and meaningful participation of women in all areas of society. This process began with the adoption of the United Nations Convention on the elimination of all forms of discrimination against women in 1979¹. Studies of international organisations indicate that there is a correlation between gender inequality and society's propensity for civil or interstate conflicts [1]. The report on gender equality in the SPECA countries (UN Special Programme for the Economies of Central Asia) notes

that women still make up only 4.2 percent of military personnel in United Nations peacekeeping missions; new data released in May 2019 show record levels of political violence against women; only 41 percent of Member States have adopted National Action Plans on women and peace and security, and only 22 percent of all plans at the time of adoption included a budget for their implementation [2].

The National Action Plans for the implementation of the SCR (Security Council Resolution) of the UN No. 1325², drawing on the activities of women groups and on the experience of conflict, have provided a key basis for bringing together and increasing transparency of various aspects

1. United Nations Convention About the liquidation of all forms of discrimination against women. (1979, December). Retrieved from https://zakon.rada.gov.ua/laws/show/995_207#Text.

2. Security Council, Resolution 1325. (2000, October). Retrieved from <https://www.osce.org/files/f/documents/d/d/75309.pdf>.

concerning the role of women in ensuring peace and security: from the right to vote and represent in political and supervisory bodies to increasing the number of women in the security forces, army, and police. The security sector, which is based on human security, takes into account the needs of men, women, boys and girls, ensures the full and rightful participation of women in meeting the needs of the entire population and contributes to the creation of a peaceful and reliable society [3]. The presence of armed forces with a more pronounced diversity of personnel, as well as with a wider composition of regulatory bodies, leads to a change in society's views on who is the defender and who is the one protected, which makes security issues a matter of concern for the entire society. Similarly, systematic gender mainstreaming can transform the image of the armed forces from an institution primarily associated with violence and warfare to an institution more closely linked to peace consolidation and democratisation. Many studies among scientists around the world investigate the consideration of the functioning of the military organisation of the state [4-6], but they practically do not concern its gender aspects [7-11], or only its individual aspects [12-14]. Analytical materials based on the results of expert opinions of various agencies and organisations [5] or methodological materials [15; 16], electronic publications [17; 18] and conference abstracts [19; 20] are generally in open access.

Despite the growing attention to the military organisation of the state, the adoption of measures to reform the Armed Forces in Ukraine after the events of 2014 and the introduction of the Anti-Terrorist Operation and the Joint Forces Operation, there was almost no increase in the number of publications covering gender aspects in this area in the scientific community. Even the adoption of relevant acts on gender issues, including in the field of ensuring national security of the state, also did not lead to an increase in scientific interest in this issue, and in particular in the military organisation of the state. Notably, the Ministry of Defence of Ukraine and the General Staff of the Armed Forces of Ukraine can be considered the only agencies that have taken an active position on this issue and started performing the main goals of partnership with NATO in gender aspects of military service and the provisions of UN Security Council Resolution 1325 "Women, Peace, Security"¹. In addition, Ukraine is the only state that adopted UN Security Council Resolution 1325 under conditions of war. Thus, the implementation and provision of gender parity as a component of civilian democratic control over the military organisation of the state requires special attention on the part of scientists and military practitioners.

1. MATERIALS AND METHODS

The methodological framework of the study comprises a set of philosophical, general scientific, and special legal methods of scientific cognition. The applied methodology made it possible to identify the main problems of

establishing and implementing gender equality in the military organisation of the state; to develop the main directions for solving gender problems. The methods used allowed the authors to obtain reliable and reasonable conclusions and results. As one of the main methods of analysis, comparative analysis was used, which allowed comparing the Ukrainian practice of realising the gender issue in the military organisation of the state with the legal framework for regulating the object of research in other countries and at the international level, as well as in national practice in the dynamics of recent years.

At the theoretical level of the analysis, the main provisions of the legislative framework for regulating the right of women's access to the structures of the military organisation of the state at the international, foreign, and national levels were studied. The descriptive method made it possible to present the results of the study in a logical sequence. The research also uses methods of synthesis, analogy, system, classification and analytical. The normative method is used to analyse aspects of issues that arise within the framework of legal regulation of women's rights in the context of participation in the military organisation of the state.

The use of the evaluation method allowed the authors of the study to draw conclusions regarding the level of gender equality consideration and implementation of recommendations of international organisations in the national legislative system to ensure gender balance. The study also investigated the main provisions of the legislative framework for regulating the right of women to take part in the military organisation of the state and their status in it.

The synthesis method made it possible to solve research problems of analysing the primary sources of the subject matter. And the application of the analytical method to these primary sources made it possible to identify the most effective provisions that can be implemented in the national legal system. Methods of induction and deduction are used to analyse the content and structure of the legislative texts, features of legal provisions in the context of the subject matter. The historical method was used to analyse the process of establishing gender equality and developing civil democratic control in rule-making and legal doctrine at different stages of state development.

The genetic method made it possible to identify the stages in the evolution of women's right of access to take part in the military organisation of the state, establish their sequence over time and trace how and under the influence of what factors the provisions governing them changed, as well as civil democratic control developed. Due to the structural and functional analysis, it was possible to consider the features of the structure of the military organisation of the state and control over the compliance of these structural elements with gender perspectives, their interaction with each other and with other institutions whose activities in affect these issues in a certain way.

1. Order of the Cabinet of Ministers of Ukraine No. 113-r. "On approval of the National Action Plan for the implementation of UN Security Council Resolution 1325 "Women, Peace, Security" for the period up to 2020". (2016, February). Retrieved from <https://www.kmu.gov.ua/npas/248861725>.

2. RESULTS AND DISCUSSION

The military organisation of Ukraine as a state comprises: the Armed Forces of Ukraine and other components of the State Defence Forces and law enforcement agencies (the Security Service of Ukraine, the National Guard of Ukraine, the State Special Transport Service, the State Special Service of Communications and Information Protection, the State Security Department of Ukraine) and other military formations established in accordance with the law. The Armed Forces are a specific organisation of government bodies, military formations, institutions, and organisations that form a part of it. The latter, as a state military organisation, are structurally part of the military organisation of the state and act as a basic component of the military organisation of the state. Ukraine has adopted fundamental laws “On Defence of Ukraine”¹, “On National Security of Ukraine”², which allow governing legal relations on general issues of organisation and development of the Armed Forces, other troops, military formations and bodies, issues of military duty and military service, social protection of military personnel. At the same time, the regulatory framework of the military organisation of the state is not a single integral system that would allow regulating the issues of ensuring the military security of the state in accordance with the legislative procedure.

The Law of Ukraine “On National Security” does not say a word about the military organisation of the state. The laws “On Military Construction”, “On the Military Organisation of the State”, “On Territorial Defence”³ and others have not yet been adopted. Legislative acts in this area are more outdated^{4,5}, have numerous amendments and revisions, which necessitates the adoption of new statutory documents. Thus, the Law of Ukraine “On Democratic Civilian Control over the Military Organisation and Law Enforcement Bodies of the State” (repealed) defines a military organisation of the state as a set of public authorities, military formations, covered by a single leadership and established in accordance with the Constitution and laws under the democratic control of society and, in accordance with the Constitution and laws of Ukraine, directly aimed at protecting the interests of the state from external and internal threats; the law also defines the democratic civilian control over the military organisation and law enforcement

agencies as a set of legal, organisational, informational measures to ensure strict observance of the rule of law and openness in the activities of all components of the military organisation and law enforcement agencies of the state, promotion of their effective activities and performance of their functions, strengthening state and military discipline⁶.

The Law of Ukraine “On the Fundamentals of National Security of Ukraine”⁷ (repealed) also contained the definition of the military organisation of the state as a set of state authorities, military formations established in accordance with the laws of Ukraine, whose activities are under democratic civilian control by society and are directly aimed at protecting the national interests of Ukraine from external and internal threats. These laws lost their force with the adoption of the Law of Ukraine “On National Security of Ukraine”, where there is no definition of the military organisation of the state, but the concept of democratic civil control is covered as a set of legal, organisational, informational, personnel, and other measures carried out in accordance with the Constitution and laws of Ukraine to ensure the rule of law, legality, accountability, transparency of security, and defence sector bodies and other bodies whose activities are related to the restriction in certain cases of human rights and freedoms, promoting their effective activities and performing the functions assigned to them, strengthening the national security of Ukraine. Unfortunately, these regulations do not in any way regulate the gender aspects of women’s participation in the military organisation of the state.

The integration of gender equality in the security, defence, and military protection sectors of the state is important for any country for the following reasons:

- ensuring respect for universal principles of human rights;
- improving the effectiveness of management decisions made with the participation of men and women;
- the use of gender equality ensures a balance both in operational management and in the future.

The beginning of the implementation of the gender perspective in Ukraine was realised through the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men”⁸ and the Presidential Decree “On Improving the Work of Central and Local Executive

1. Law of Ukraine No. 1932-XII “On defense of Ukraine”. (1991, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/1932-12#Text>.

2. Law of Ukraine No. 2469-VIII “On the national security of Ukraine”. (2018, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

3. Draft Law No. 4504. “On territorial defense”. (2020, December). Retrieved from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=70682.

4. Law of Ukraine No. 1934-XII. “On the Armed Forces of Ukraine”. (1991, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/1934-12#Text>.

5. Resolution of the Verkhovna Rada of Ukraine No. 1659-XII “On the concept of defense and construction of the Armed Forces of Ukraine”. (1991, November). Retrieved from <https://zakon.rada.gov.ua/laws/show/1659-12#Text>.

6. Law of Ukraine No. 975-IV (repealed) “On democratic civilian control over the military organization and law enforcement agencies of the state”. (2003, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/975-15#Text>.

7. Law No. 964-IV “On the foundations of national security of Ukraine”. (2003, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/964-15#Text>.

8. Law of Ukraine No. 2866-IV “On ensuring equal rights and opportunities for women and men”. (2005, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/2866-15#Text>.

Authorities to Ensure Equal Rights and Opportunities for Women and Men”¹. However, it follows from Article 6 of the above law that compulsory military service for men cannot be considered discrimination on the grounds of sex, and the law allows women to hold mostly “peaceful positions” in military service². The changes introduced in 2016³ allowed women to hold positions not only as signalmen, accountants or cooks, as previously assumed by the current procedure, but also as grenade throwers, snipers, and other more than 100 combat specialties. The appointment should be preceded by appropriate training in educational institutions of the Armed Forces of Ukraine, taking into account the level of physical fitness and the ability to moral and psychological stress in combat conditions. Since 2018, legislative changes⁴ have made it possible to accept women for contract service and in the ranks of the Armed Forces of Ukraine, which practically equalised men and women in their rights⁵ with the exception of issues of ensuring maternal and child protection. Similarly, women on an equal footing with men received the right to be called to active duty, to enroll voluntarily (under contract), to enroll in the military reserve, to be in reserve, to be on the military register.

This regulation also removed the previous restrictions on the age of service for women aged 18-40 – both on call and under contract. For officers, restrictions on the ability to perform military service under a contract have also been lifted. Previously, women had this right only until the age of 40, at present – until the age limit for military service of officers. Restrictions on the service of women in the military reserve were lifted and pregnant women were exempted from passing training camps, and those with children under 14 years of age – from carrying out a duty without their consent. Clearly, the legal status of female military personnel has currently improved; their number has increased, including in the highest military positions. The law establishes the principle of equal military service for women and men, equal access to positions and military ranks [21]. To ensure gender equality, women and men, respectively, are given equal responsibilities under military service duties. These legislative changes have had a positive impact on the gender structure of the security and defence sector. The dynamics of the number of women in military service in Ukraine is presented in Figure 1.

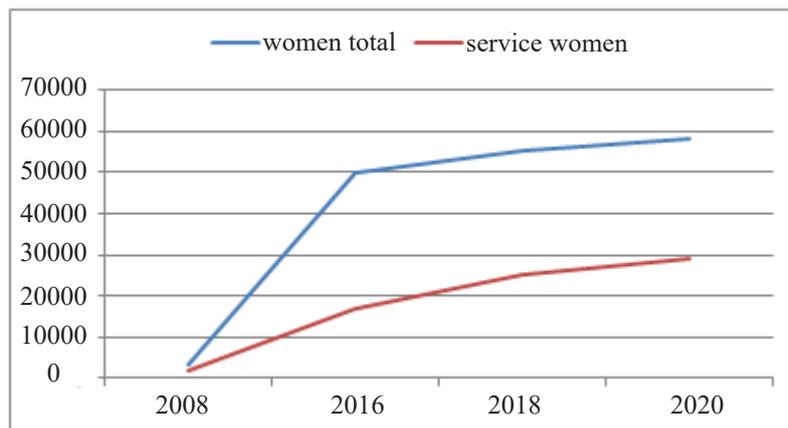


Figure 1. Dynamics of the number of women in the Armed Forces of Ukraine

Source: compiled by the author based on data from [22]

As of mid-2016, the number of women who worked and served in the Armed Forces of Ukraine was 49,552, including 17,147 female military personnel (8.5%), of which 2,092 were officers and 14,607 were female sergeants and soldiers [23; 24]. In 2014, when the war in the Donbas began, almost 140 thousand people served in the Ukrainian troops, and during the four years of the war, the number of

military personnel increased by more than 100 thousand people. In 2020, more than 250 thousand military personnel serve in the Armed Forces of Ukraine. As of 2016, more than 1,500 female servicemen received the status of a combatant, more than 600 of them were awarded distinctions of the Ministry of Defence of Ukraine, and more than 30 were awarded state awards [25]. In 2018, 25,000 women served in

1. Presidential Decree No. 1135/2005 “On improving the work of central and local executive bodies to ensure equal rights and opportunities for women and men”. (2005, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/1135/2005#Text>.
2. Order of the Ministry of Defense of Ukraine No. 337 “On Provisional list of regular positions of privates, sergeants and sergeants”. (2014, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0600-14#Text>.
3. Order of the Ministry of Defense of Ukraine No. 292 “On approval of changes to the temporary lists of military accounting specialties and staff positions of privates, sergeants and non-commissioned officers and female servicemen and tariff lists of positions of the above-mentioned servicemen”. (2016, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0880-16#Text>.
4. Order of the Ministry of Defense of Ukraine No. 627 “On approval of lists of military accounting specialties and staff positions of privates, sergeants and sergeants and tariff lists of positions of the above-mentioned servicemen”. (2018, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/z1507-18#Text>.
5. Law of Ukraine No. 2523-VIII “On amendments to certain laws of Ukraine concerning ensuring equal rights and opportunities for women and men in military service in the armed forces and other military formations”. (2018, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/2523-19#Text>.

the Armed Forces of Ukraine (in 2017 – more than 23.000), of which more than 3.000 were officers, and a total of 55.000 women served and worked in the forces. Since 2008, when there were only 1.800 of them, their number has increased 15-fold. In 2014-2018, 170 thousand servicewomen signed a contract with the Armed Forces of Ukraine. In 2019, there were 27 thousand of servicewomen [26; 27].

In 2020, 58 thousand women work and serve in the Armed Forces of Ukraine, that is, 23% of the total number of military personnel, of which 29 thousand were in military service. Among female military personnel, almost 4 thousand were officers, 7 thousand were sergeants and 17 thousand were soldiers. In 2020, more than a thousand cadets study in military educational institutions. More than 12 thousand women received the status of a combatant [28]. As of 2020, 9,916 women received the status of participants in military operations, 166 were awarded state awards of Ukraine. Thus, modern women, who through the lens of long-established stereotypes about femininity began to acquire masculine traits, increasing their representation in the Armed Forces of Ukraine, carrying out military service on a par with men, moreover – taking an active part in military and special legal measures of Ukrainian law enforcement agencies, aimed

at counteracting the activities of illegal Russian and pro-Russian armed groups in the war in eastern Ukraine [29; 30].

Comparing the number of women in the army with the same in other countries, Ukraine lags far behind in this indicator. For example, there are more than 200 thousand women in the US Armed Forces. A comparative analysis of the career movement of women in the army also indicates a considerable lag in Ukraine. Thus, in Ukraine, women have only the rank of senior officers (colonels, more often in military medicine), as for the rank of general, it is not awarded to any woman. Meanwhile, in the armies of Great Britain, the United States, Italy, and France, there are many female generals. Thus, General D. Holland heads the West Point Military Academy, where women received the right to study 50 years ago. In countries such as Germany, Spain, and Norway, women even serve as Defence Ministers. The introduction of 19 gender advisers in the Ministry of Defence of Ukraine since September 2018 should also be noted as a positive aspect. In the future, it is planned to introduce such advisers in all military units of the Armed Forces of Ukraine and structural divisions of the Defence Ministry. The main problems of implementing gender equality in the Armed Forces of Ukraine are as follows (Figure 2).

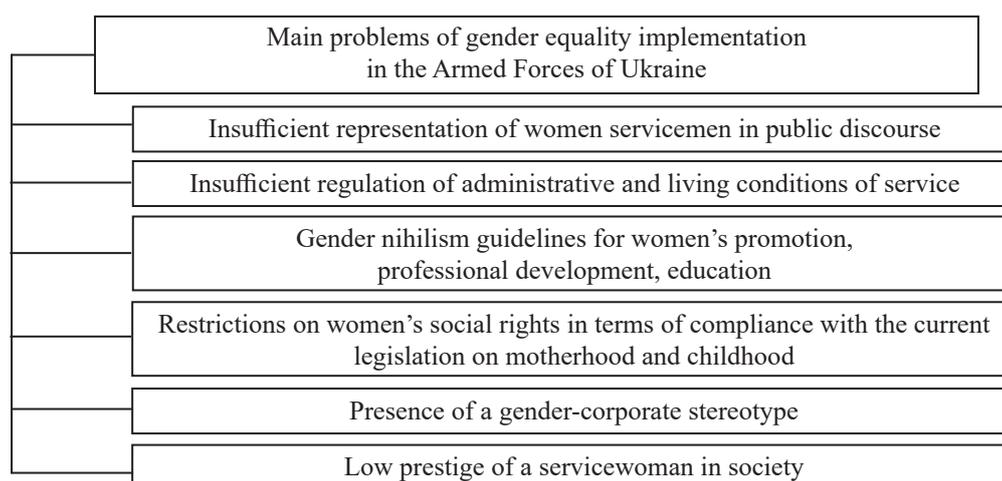


Figure 2. Main problems of gender equality implementation in the Armed Forces of Ukraine

Source: identified by the author

In terms of this study, the results of a survey among servicewomen are of interest:

- 37% of young women with a fairly high level of education are dissatisfied with the low-content nature of military activities, which does not allow for personal self-fulfilment [31];

- 33% of mothers of military personnel report difficulties associated with the need to care for children, especially preschool age [14];

- the prestige of a female serviceman in society: about 32% of female servicemen are rated at an average level, 15% – below average, about 17% – completely absent, 15% – difficult to determine [14].

- the attitude of female military personnel towards their military career: 46% – have no prospects to make a military career, 23% – rather have no prospects, 12% – rather have prospects, 8% – certainly have such prospects [14].

In addition, according to female military personnel,

the infrastructure of the Armed Forces of Ukraine is equipped to meet the needs of men and excludes women with their specific needs from the Army [32; 33]. Despite the fact that these surveys were conducted even before the introduction of legislative changes to improve gender perspectives and the intensive development of the state's military organisation after the events in the east of the country, these issues remain unresolved and are still relevant to date. Civilian control over the Armed Forces as a socio-political process is a kind of interaction between the state and society regarding the role of the military organisation of the state and its security forces [34]. The necessity and high importance of civil control is conditioned by the fact that law enforcement agencies can get a high degree of independence and weight of influence on the national policy, provided that there is no effective leadership and control.

One of the first systems of civilian control over

the army can be considered the model laid down in the US Constitution of 1789¹. According to its provisions, the Congress is responsible for the formation and support of the army, its financing, in order to avoid the danger of concentration of power with the forceful support of the President. In addition, it is Congress, not the executive branch, that has the right to declare war to avoid making hasty decisions that can no longer be changed. At the same time, according to the Constitution, the president holds the rank of Commander-in-chief of the Army, the US Navy and the US police, which gives him quite extensive powers to repel attacks by foreign states and protect the nation.

However, the US Constitution does not contain provisions on civil control. This is primarily conditioned by the fact that the system of civil control during the development of American statehood, in fact, was represented by one key principle – the principle of a citizen-soldier. This principle meant that every citizen was responsible for protecting the nation and freedoms, and therefore, if necessary, such citizen would go to war, which acted in conjunction with the ideology that the Armed Forces should embody democratic principles and encourage citizen participation. M. Weber also noted that the state monopoly on the legitimate possession of force and the use of this force is one of the main attributes of the state. Only the state has the right to create and use an army [35; 36]. The history of the development of civilian control over the army has developed a number of fundamental principles for its organisation. Among them, of great importance for understanding the nature of control over the army is the thesis that control over the Armed Forces is the prerogative of the society that created them [37; 38].

One of the main tasks of military reform is to increase civilian control and control by citizens. Standing parliamentary committees on defence and civil society institutions should include men and women who understand the importance of gender mainstreaming so that they can ensure that the different needs of men, women, boys and girls are taken into account in all regulations and programmes adopted in the defence sector. Women's civil society organisations and research institutes involved in

the gender dimension of the state's military organisation need to be involved in civil control processes. This will ensure that an integrated approach to the security concept is applied. The integration of gender into the military reform process opens up opportunities for a much wider segment of the population to be capable of taking an active part in security and in the work structures that make decisions in the security sector. This is especially important from the standpoint of ensuring national support for the activities of security sector institutions, since women make up as much as 50% of society [22].

CONCLUSIONS

Democratic governance of the Armed Forces is based on the participation of civil society in political decision-making processes and on monitoring the activities of the Armed Forces. For civil society to perform these roles in the management of the security sector, it is necessary that: firstly, it has the capacity to monitor and make a constructive contribution to political discussions regarding security priorities, and secondly, that the political environment allows civil society to play an active role in the military organisation of the state. A military organisation of the state is proposed to be understood as an organisation where the state, represented by authorities, organisations, officials, and citizens, is organised into a system in such a way that in case of a military threat to security, each of its elements would perform its strictly defined functions.

In Ukraine, the solution of the gender issue in the field of national security and defence has been on pause for a long time. The global mainstreaming of gender studies and the increasing gravity of women's legal status in all spheres of public life have led to a gender breakthrough in women's military service in Ukraine. Today, the representation of women in the military organisation of the state, especially in the field of defence, is growing, which corresponds to global trends in the development of the state. Military service gains its prestige and becomes interesting for women, where due to legislative changes, the specifics of their legal status, as well as the specifics related to motherhood and childhood are taken into account.

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