

Artículo de investigación

**CIVIL-MILITARY COOPERATION – CIMIC as an institution
of civil society**

Цивільно-військове співробітництво як інститут громадянського суспільства

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Abstract

Relevance of the article is the need to study civil-military cooperation as an institution of civil society. The subject of the study is the legislation of Ukraine and NATO member states on the implementation of civil-military cooperation. The following research methods were used when writing the study: comparative law, analysis, synthesis, induction, deduction. The purpose of the article is to investigate the specifics of civil-military cooperation of Ukraine as a civil society institute with the implementation of NATO experience. To achieve this goal, the following research objectives were set: to analyze the main provisions of international and national legislation on the establishment of civil-military cooperation as an institution of civil society; identify ways of improving civil-military cooperation as an institution of civil society on the good experience of NATO. The authors concluded that Ukraine's civil-military cooperation requires the improvement and further implementation of NATO's experience. Today Ukraine takes first experience of civil-military cooperation. The civil-military cooperation of Ukraine is unique, which is conditioned by the

Анотація

Актуальність статті полягає у необхідності дослідження цивільно-військового співробітництва, як інституту громадянського суспільства. Об'єктом дослідження є законодавство України та країн – членів НАТО, щодо впровадження цивільно-військового співробітництва. При написанні дослідження були використані наступні методи дослідження: порівняльно-правовий, аналізу, синтезу, індукції, дедукції. Метою статі є дослідження специфіки цивільно-військового співробітництва України, як інституту громадянського суспільства з впровадженням досвіду країн НАТО. Для досягнення зазначеної мети були поставлені наступні завдання дослідження: проаналізувати основні положення міжнародного та вітчизняного законодавства щодо становлення цивільно-військового співробітництва як інституту громадянського суспільства; визначити напрямки вдосконалення цивільно-військового співробітництва як інституту громадянського суспільства використовуючи позитивний досвід країн НАТО. Авторами був зроблений

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character, namely the systematic combination of traditional and unconventional force actions as equal components. The situation in eastern Ukraine is an ideal ground for developing a national model of civil-military cooperation in non-military operations.

Key words: Civil-military cooperation, civil society, military-civil cooperation, private-law relations, public-law relations.

висновок про те, що цивільно-військове співробітництво України потребує вдосконалення та подальшого впровадження досвіду країн НАТО. На сьогоднішній день Україна набуває першого досвіду цивільно-військового співробітництва. Цивільно-військове співробітництво України є унікальним, що зумовлюється характером, а саме системним поєднанням традиційних та нетрадиційних силових дій як рівноправних складових. Ситуація на сході України, є ідеальним полігоном для відпрацювання національної моделі цивільно-військового співробітництва в операціях невійськового типу.

Ключові слова: військово-цивільне співробітництво, громадянське суспільство, публічно-правові відносини, приватно-правові відносини.

Introduction

Civil-military cooperation in the military administration of NATO forces emerged in the late 1980s in connection with numerous interethnic conflicts in the territories of Southern and Eastern Europe, which involved international peacekeeping contingents. In this regard, the military and political leadership of the North Atlantic Alliance paid considerable attention to the development of the legal framework and the elaboration of the tasks entrusted to CIVIL (CIVIL-MILITARY CO-OPERATION - CIMIC), during peacekeeping operations, and during international military exercises, including with the involvement of NATO partner countries. Since, the challenges and threats that exist require constant monitoring of the civilian environment, comprehensive study and forecasting of the impact of civil society on the actions of multinational military forces. The emergence of civil society institutions and the development of democracy in the country are closely interlinked: the more advanced civil society is, the more democratic the state is. The prerequisites for the development of civil society are the emergence of economic autonomy among citizens in the diversity of ownership and the status of the human personality. Civil society institutions, including public human rights organizations, should be involved in the development and implementation of state policies in the field of protection and protection of human and citizen's

rights and freedoms in the event of military conflicts.

Methodology

General methods such as analysis, synthesis, induction, deduction, etc., have been used in the article.

Among the special scientific methods used in the article are the method of comparative law, the method of systematic research, the structural-functional method. The method of comparative law allowed the authors to discover and analyze similar and distinct features of the concepts of civil-military cooperation between the armies of the leading countries of the world and Ukraine. Using the structural-functional method, we were able to analyze the specifics of developing a national model of civil-military cooperation. The use of the system method allowed to substantiate the systemic character of the institutions of civil-military cooperation.

Analysis of recent research

Scientific and theoretical basis for research work consists Kolodiy A.M (2003), Oleinik A.Y (2003), Koropatnik I.M (2016) Nozdrachov O.D (2015), Biloshitskiy V.I. (2013), Shevchenko V (2016) and others. However, the formation of law enforcement for what is happening in Ukraine needs further development of this problem.

Presentation of key research findings

Military-civilian relations in democratic states are usually considered in two main ways: the relationship of the armed forces with the local authorities and with society as a whole. The most common areas of research in this area have traditionally been: a) military-civilian relations during large-scale wars; and b) the internal political role of the armed forces and civilian control of them in peacetime (civil-military relations). We cannot distinguish one of the areas, since the JFO (Joint Forces Operation) in Ukraine has a specific feature, that is, something between the full-scale war and peacetime, and therefore the relations are specific and require proper legal regulation.

Over time, there is improvement of legislation, doctrine of civil-military cooperation adopted in June 2003 (AJP-09 NATO CIVIL-MILITARY CO-OPERATION (CIMIC) DOCTRINE), details that civil-military cooperation is "coordination and interaction between NATO command and civilians (population of conflict zone, authorities, international, national and non-governmental organizations and agencies) in order to ensure fulfilment of forces assigned tasks" (NATO civil-military cooperation (CIMIC) doctrine / AJP-9, 2003)

The United States and Canada have similar models of CIMIC. The US and Canada approach focuses primarily on influencing civilians to support their forces. During the CIMIC, the military can perform the functions of civilian authorities and organizations. The field of activity is aimed at solving such tasks as the promotion of humanitarian assistance, monitoring of human rights, ensuring the placement of refugees, observing the order of free elections, and so on. V.I. Biloshitskiy notice that the doctrine of NATO Partner countries is not focused solely on the implementation of such projects, although humanitarian projects in support of their forces are not excluded. After generalizing the experience of participating in military operations in different corners of the world, the importance and necessity of organizing the interaction of civilian and military players in the conflict zone was clarified - the development of a CIMIC doctrinal base in the armies of the leading countries of the world and, 1 NATO AJP-9 12 directly, at NATO when deploying troops in international peace and security operations. (Biloshitskiy V.I., 2013)

Ukraine, as an independent state, started peacekeeping operations in 1992, two years later

Ukraine has joined NATO's program "Partnership for peace" (Ukraine's peacekeeping activities in cooperation with NATO and other European security structures: a monograph, 2001).

Since 2003, Ukraine has gained experience in international peacekeeping and security operations. The term civil-military relations was enshrined in the Law of Ukraine "On Democratic Civilian Control of the Military Organization and the Law Enforcement Agencies of the State", where civil-military relations were defined as a set of legal relations between society and constituent parts of the Military Organization of the State that cover political, financial, economic, social and other processes in the field of national security and defence.

Mechanisms of interaction between the state and civil society institutions are considered by scientists in several aspects. From the point of view of legal science, civil society, as a constituent state, is such a model of social development that offers balanced inter-control and inter-limitation of state bodies and non-governmental entities (civil society institutions) so that the activity of state bodies is always within the sphere of view of non-state structures., in turn, should correlate their actions with the law and take into account the objective needs of the state.

Concept stipulates, that "CIMIC - a set of measures, aimed at organizing the interaction of command of Ukrainian peacekeeping contingents with civilians, local authorities, international governmental and non-governmental organizations, as well as religious and other organizations and agencies in order to create favourable conditions to fulfil tasks of Ukrainian peacekeeping contingents and achieving ultimate goal of international peacekeeping operations» (Order of Defense Minister of Ukraine from 20.01.2009 N. 15)

The concept enshrines that "the CIMIC is a complex of measures aimed at organizing the interaction of command of Ukrainian peacekeeping contingents with civilians, local authorities, international governmental and non-governmental organizations, as well as religious and other organizations and agencies in order to create favourable conditions for Ukrainian peacekeeping contingents and achieving the ultimate goal of international peacekeeping operations. "Based on the above, it can be noted that such activities involve the communication of civilian and military components, in particular at

the national and regional levels, to ensure a long-term and consistent mechanism for the full protection of civilians in conflict and harm reduction. O. Nozdrachov also emphasizes this aspect, which emphasizes that civil-military cooperation is a joint activity, the subjects of which are, on the one hand, the Armed Forces, on the other hand, - executive authorities, local self-government, public organizations, unions, organizations and citizens in the areas of deployment of military units and units of the Armed Forces. (Nozdrachov O.D, 2015)

The definition of civil-military cooperation proposed by Koropatnik I.M. is somewhat broader and is based on the author's substantive features of civil-military cooperation, in particular such as: the regulation of legal norms, among which administrative law is the key; the systematic nature of which is the existence of interconnected elements, the interaction between them and the common purpose; the orderliness of relationships arising within this system. Continuing the idea, the author proposes to understand the notion of civil-military cooperation as regulated by the legal norms of the system of relations between the entities to which they belong, on the one hand - the Armed Forces as a special institute of the state, on the other - bodies of executive power and local self-government, public unions, organizations and citizens whose purpose is to create favourable conditions for the fulfilment of the functional purpose of each of them, to assist the citizens in the area of armed conflict, on the basis of which the noting the authority of the Military Organization of the State and increasing the effectiveness of the Armed Forces. (Koropatnik I.M., 2016)

At the same time, V. Shevchenko considers civil-military cooperation a form of government in the context of the activities of civil-military administrations. The author notes that within the framework of the anti-terrorist operation there is management of the territories in which it is conducted. Such management is carried out in the form of civil-military cooperation - a unique form of interaction between civilian and military administrations, aimed at ensuring the primary fulfilment of the Armed Forces tasks on the protection of sovereignty and inviolability of the state territory, as well as socio-political and socio-economic processes of territorial development taking into account the features of the operation. (Shevchenko V., 2016)

Conclusions

Considering that today the first experience of civil-military cooperation has been gained in Ukraine, it should be noted that:

- The creation and development of an appropriate legal framework for civilian-military cooperation is one of the most important components of JFO-related activities;
- The specificity of CIMIC is that it constitutes a civilian structural component, which aims both at cooperation with civilians and the military, and at assistance;
- The CIMIC principles are special (military), since the CIMIC structure has a military leadership related to the military task;
- Taking into account international experience, new methods and legal framework for the development of the CIMIC system in the further activity of the Armed Forces of Ukraine in the field of humanitarian assistance in the future are being developed.

For the last 26 years, the employees of the CIMIC of Ukraine are the only one among the European states serving in the territory of their own state.

Bibliographic references.

- Biloshitskiy V.I., (2013) "Civil Military cooperation in NATO countries: history and nowadays" Kyiv, NTUU "KPI"
- Kolodiy A.M, Oleinik A.Y. (2003), "Human and citizen rights in Ukraine", Kyiv, "Jurikom inter".
- Koropatnik I.M., (2016). "Interaction between civil society and the Armed Forces of Ukraine: administrative and legal framework", Kyiv, "MP Lesya".
- NATO CIVIL-MILITARY COOPERATION (CIMIC) DOCTRINE / AJP-9, Allied Joint Publication - 9 / AJP-9, June 2003. Retrieved from <https://www.nato.int/ims/docu/AJP-9.pdf>
- NATO-civilian-military cooperation: a manual*. NDU of Ukraine named after Ivan Chernyakhovsky, 2015. Retrieved from <https://civic.com.ua/en/>
- Nozdrachov O.D., (2015). "Features of activity of civil-military cooperation groups of the Armed Forces of Ukraine. Actual problems of interaction between civil society and the Armed Forces of Ukraine: collection of materials of the International scientific-practical conference", Taras Shevchenko National University, 2015.

Order of Defense Minister of Ukraine from 20.01.2009 № 15 “On approval of Civil-Military Cooperation concept of armed forces of Ukraine participation in International peacekeeping operations”, Retrieved from <http://kreschatic.kiev.ua/ua/3297/news/1232710429.html>

Ukraine's peacekeeping activities in cooperation with NATO and other European security structures: monograph - Kiev: NISI, KIMS 2001. Shevchenko V.I. (2016) “Administrative-legal status of civil-military administrations” Retrieved from <http://www.chasopysnapu.gp.gov.ua/chasopys/ua/pdf/12-2016/shevchenko.pdf>.