

# ANALYSIS OF INTERNATIONAL EXPERIENCE IN DETERMINING THE STATUS OF PRISONERS OF WAR AND RESPONDING TO THREATS IN THE FIELD OF MILITARY SECURITY

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**Abstract.** The article examines the legal status of prisoners of war in the context of military conflict. It is noted that in the course of the Russian-Ukrainian war, the issue of implementation and guarantees of the rights and interests of prisoners of war, regulation of the activities of relevant state bodies and officials, and bringing the aggressor country to international responsibility for their violation is particularly relevant. The authors determine that the system of normative legal acts of international humanitarian law defines the rights and obligations of prisoners of war, and the procedure for their detention by states within the framework of international obligations. It is emphasised that the Geneva Convention relative to the Treatment of Prisoners of War of 12.08.1949 is of particular importance in determining the legal status of prisoners of war in armed conflict, since this international treaty establishes rules and standards for the protection of prisoners of war during armed conflicts, their rights and obligations, as well as the obligations of the states holding them. The article formulates that the structure of the legal status of a prisoner of war consists of: 1) the rights of a prisoner of war (general human rights and special status rights of a prisoner of war), a significant part of the rights of prisoners of war is enshrined in the Convention by comparing legal situations with similar ones applicable to persons from the Armed Forces of the capturing state; 2) the duties of a prisoner of war (to obey the laws, regulations and orders in force in the armed forces of the state holding him captive, to disclose personal data); 3) guarantees of their implementation by the state holding the prisoner of war; 4) legal liability of a prisoner of war (disciplinary and criminal liability). It is noted that in case of violation of the rights of prisoners of war by a state that holds them in captivity, it will be responsible to the international community and affected persons, in particular, by decision of international tribunals or existing international judicial bodies, such a state is obliged to provide reparations or compensation to affected persons or states whose prisoners of war have suffered violations of their rights. The experience gained by modern Ukraine is invaluable, as this is the biggest threat after the Yalta Agreement, after the construction of the global security architecture. However, Ukraine, with its underdeveloped institutions, needs to study the experience of countries that have overcome threats to military security, and thus national security. After all, belonging to the Western community is only a declaration of its ideas and their enshrining in documents, and, first and foremost, thinking in Western terms. The paper analyses the experience of responding to and assessing threats in the field of military security of countries with a high level of development: Israel, the United Kingdom, and the Netherlands. Special attention is paid to the experience of developing documents related to this issue: strategies, reports, profiles. The authors draw attention to the level of advisory support for certain procedures and the involvement of a wide range of specialists.

**Keywords:** prisoner of war, legal status, rights and obligations of prisoners of war, military conflict, governing bodies, military security response, social protection, social security of veterans.

**JEL Classification:** H56, K19, K39, F51, F52, H55

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## 1. Introduction

The study of the legal status of prisoners of war is important in terms of ensuring international justice, protecting human rights, preventing war crimes and maintaining humanitarian norms during armed conflicts. In fact, the consolidation of legal regulation of the status of prisoners of war at the international and national levels demonstrates the commitment of the international community to basic humanitarian values even in times of war, which promotes the principles of humanity and respect for human dignity, creates more effective legal mechanisms that guarantee the protection of prisoners of war in the new conditions of modern conflicts, and reduces the likelihood of revenge or ill-treatment of prisoners of war by the opposing party to the conflict.

Ukraine's ratification of international humanitarian law contributed to the unification of Ukrainian legislation in accordance with international standards with a preliminary definition of the content and scope of international obligations in certain areas, not leaving aside the issue of treatment of prisoners of war, due to the general purpose of international humanitarian law is to reduce the impact and mitigate the consequences of war, which are often catastrophic and always affect all spheres of human life. In this regard, the law is perhaps the only mechanism that allows establishing restrictions, rules and norms of behaviour of participants in military conflicts.

However, sometimes the means and methods of warfare may take on a form that violates the principles of international humanitarian law. In other words, the consequences of an armed conflict can be aggravated, which contributes to the emergence of preconditions for liability for violations of international humanitarian law, as evidenced by the history of military conflicts and the work of international courts (tribunals). Thus, the provisions of international humanitarian law establish, among other things, the rules for the treatment of prisoners of war, defining the obligation of states to comply with the requirements of international humanitarian law and disseminate knowledge about it to the international community in order to prevent violations of fundamental human and civil rights and freedoms.

The purpose of this article is to provide a comprehensive theoretical and legal analysis of the problematic aspects of the legal status of prisoners of war, their rights and obligations and the specifics of bringing them to justice, taking into account the relevant grounds and conditions, through the prism of the experience of the Russian-Ukrainian armed conflict, and also to summarise the results of the analysis of the world experience in relation to threats in the field of military security.

## 2. Analysis of Research and Publications on the Definition of the Status of Prisoners of War in the International Legal Framework

The study of the legal status of prisoners of war in the light of the Russian-Ukrainian war is of particular importance, and therefore attracts the attention of scholars and practitioners. In particular, the legal status of military personnel is studied by various scholars in their works.

The study by Zharovska I., Shevchuk Ya. (2023) explored the historical and modern retrospective of legal regulation of the status of prisoners of war in accordance with international humanitarian law. Kravchenko I.M. (2020) considered the legal status of such categories as "prisoner of war" and "civilian hostage" in the context of international humanitarian law and the Joint Forces Operation (JFO) in eastern Ukraine), Madzihon N.V. (2024) considered the legal status of combatants and civilians in the context of the implementation of international humanitarian law in the criminal legislation of Ukraine. Tkachenko A.V. (2024) investigated the international legal status of prisoners of war as a separate aspect of a large-scale problem, military conflicts. Taran O.V. (2022) examined the legal status and responsibility of a prisoner of war during the period of captivity.

The issue of the legal status of military personnel during their captivity, the definition of their rights and obligations, was also studied: Buriak M., Vakulenko A., Vozniuk A., Harasym P., Hloviuk I., Kaplina O., and others. Representatives of foreign doctrine dealt with these issues much more extensively, namely: Garikipati S., Kambhampati U., Nakib M., Repucci S., Slipowitz A., Zamani Y.S. and others.

For the first time at the regulatory level, the concept of "prisoner of war" was introduced in the Lieber Code, drawn up during the US Civil War (1861-1865). According to the provisions of this code, 'all members of the armed forces, "all persons participating in a mass uprising of a hostile country", as well as persons belonging to groups that joined the army' had the legal status of prisoners of war, while persons who were not part of the enemy army did not receive the status of prisoners of war and were prosecuted as criminals (Ganenko, 2024).

The legal status of prisoners of war is determined by a number of international legal acts and norms of national legislation. In this study, the focus will be on the international legal acts ratified by Ukraine.

IV Convention relative to the Laws and Customs of War on Land of 18.10.1907 (IV Convention (1907)), Geneva Convention relative to the Treatment of Prisoners of War of 12.08.1949 (Geneva Convention (1949)), Additional Protocol to the Geneva Conventions of 12.08.1949, Relative to the

Protection of Victims of International Armed Conflicts (Protocol I) of 08.06.1977, Protocol Additional to the Geneva Conventions of 12.08.1949, and relating to the Adoption of an Additional Distinctive Emblem of 08.12.2005, the UN Convention Against Torture, etc.

National laws and regulations in the area of ratification and implementation of relevant international treaties and establishment of the legal status of prisoners of war released from Russian captivity (The Order of the Ministry of Defence of Ukraine "On Approval of the Instruction on the Procedure for the Implementation of International Humanitarian Law in the Armed Forces of Ukraine" of 23.03.2017; The Law of Ukraine "On Military Duty and Military Service" (The Law of Ukraine "On Military Duty and Military Service", 1992), the Law of Ukraine "On Social and Legal Protection of Persons Deprived of Personal Liberty as a Result of Armed Aggression against Ukraine and Members of Their Families", the Resolution of the Cabinet of Ministers of Ukraine No. 296 of 15.03.2024, the Resolution of the Cabinet of Ministers of Ukraine No. 1281 of 15.11.2022, the Resolution of the Cabinet of Ministers of Ukraine No. 55 of 20.01.2023, the Regulation on the Service of Citizens of Ukraine in the Armed Forces of Ukraine, Section XII (approved by Presidential Decree No. 1153/2008 of 10.12.2008); the Instruction on the Organisation of the Implementation of the Regulation on the Military Service of Citizens of Ukraine in the Armed Forces of Ukraine (approved by the Order of the Minister of Defence of Ukraine No. 170 of 10.04.2009).

According to international humanitarian law, the scope of a prisoner of war's rights outweighs his or her obligations, which are essentially limited to obeying the laws, regulations and orders in force in the armed forces of the state in which he or she was captured (Art. 82 of the Geneva Convention III), as well as to provide during interrogation his surname, name and military rank, date of birth and army, regimental, personal or serial number or, if not available, other equivalent information (Art. 17 of the Geneva Convention III; Geneva Convention, 1949).

Since the rights of prisoners of war are a combination of different types, they can be classified according to a number of criteria, such as personal, property, physical, social, economic, cultural, religious, etc.

Thus, prisoners of war have the following rights: the possibility of enjoying the benefits provided for by Geneva Convention III, despite the crime committed before their capture (Article 85 of Geneva Convention III); the right not to be deprived of the possibility of having their rank or insignia by the state in which they are held (Article 88 of the Geneva Convention III); rights to treatment of a prisoner of war after disciplinary sanctions or criminal punishment related to the treatment (Articles 13-16

of the Geneva Convention III); a system of rights, conditions of detention, way of life, treatment (Articles 97-98 of the Geneva Convention III) and others (Geneva Convention, 1949).

Russia's full-scale war against Ukraine, which began in February 2022, has become one of the greatest challenges for the Ukrainian people since World War II, as in 2022 Ukraine has been fighting the Russian occupation for 8 years. In addition to the numerous civilian casualties, this bloody aggression led to the capture of a large number of Ukrainian servicemen and women, including minors. The protection of the rights of prisoners, especially their implementation, conditions of detention and timely release, have become urgent issues that the Ukrainian authorities, diplomats and the international community are working hard to address.

The Geneva Convention of 12 August 1949 provides for the categories of persons to be classified as prisoners of war (Additional Protocol, 2005).

In general, the relevant convention and its Additional Protocols define the rights of prisoners, including the prohibition of torture, inhuman treatment, medical care, proper conditions of detention and repatriation after the end of hostilities.

It can be confidently stated that Russia is constantly violating the provisions of international law, in particular with regard to the treatment of prisoners of war. Numerous testimonies and video evidence confirm cases of torture, inhumane conditions of detention, beatings and deprivation of life. Article 12 of the Geneva Convention states that prisoners of war are under the authority of the Powers that took them and not of the military units or forces that carried out the relevant mission (Additional Protocol, 2005).

The relevant norm is also contained in Article 4, Section II, Chapter IV of the Convention relative to the Laws and Customs of War on Land and its Annex, namely that prisoners of war are under the authority of the government of the opposing party and not of the individuals or units that took them prisoner (Additional Protocol, 2005). However, bringing the aggressor state to justice is a complex process that takes decades.

The Russian side has violated international norms on prisoners of war in many cases, including the terrorist attack in Olenivka, the shooting of Oleksandr Matsievskyi, the shooting of 2 prisoners of war near the village of Krynky, and others. According to the relevant reports of the Office of the Prosecutor General, as of April 7, 2024, more than 27 criminal proceedings were opened regarding the execution of 54 Ukrainian prisoners of war (Vityuk, Pidgorodetsky, Lugin, 2024).

The issue of releasing Ukrainian prisoners of war and protecting their rights is in the focus of attention of leading international organisations and Ukraine's

partner countries. Thus, at meetings of the UN Security Council and sessions of the General Assembly, these issues were raised, and relevant resolutions were adopted demanding that Russia strictly comply with international humanitarian law.

In light of Russia's consistent provision of erroneous data, the precise quantity of Ukrainian servicemen captured and their respective locations of detention remain uncertain. Undoubtedly, the consolidated position of the international community significantly strengthens Ukraine's efforts to protect the rights of illegally detained military personnel (Shkuta, Leheza, Telelym, Anosienkov, 2024).

Despite the horrific conditions of captivity, the Ukrainian military demonstrate examples of incredible courage, patriotism and human dignity. Their stories inspire the entire Ukrainian people. The defenders of Mariupol, in particular the soldiers of the Azov Regiment, who have been fiercely resisting the Russian occupiers for a long time, have become a symbol of the indomitable Ukrainian spirit. Those who survived the horrors of Russian captivity tell of torture, cynical abuse and neglect of prisoners by the Russian side.

The United Nations is an international organisation whose purpose is to maintain and promote peace and international security. The report of the UN Human Rights Monitoring Mission in Ukraine focuses on the results of the survey. In particular, it is noted that almost every Ukrainian prisoner of war interviewed described torture by Russian servicemen during their captivity: beatings, electric shocks, threats of execution, prolonged exhausting body positions and mock executions. More than half of them were sexually assaulted (REPORT, 2023).

Having analysed the report, one can clearly see the violent actions on the part of Russia, the levelling of international law, respect for human life and dignity. It is worth noting that the activities of the International Committee of the Red Cross help Ukrainians to find their relatives in Russian captivity. At the same time, there is a constant attempt by the Russian Federation to limit the communication of the Committee's representatives with prisoners of war, even though they have a unique mandate (Vityuk, Pidgorodetsky, Lugin, 2024).

First of all, it is necessary to achieve an unprecedented level of consolidation of the international community

Table 1

**Collective research on the processes related to Ukrainian prisoners of war in the period from 2022-2024**

	2022	2023	2024	Total quantity (2022-2024)
Executions recorded by the UN	17 <a href="https://zaborona.com/v-ukrayini-za-2022-rik-znykly-bezvisty-majzhe-19-000-lyudej-shho-robyty-yakshho-vtratyly-zvyazok-z-blyzkymy/">https://zaborona.com/v-ukrayini-za-2022-rik-znykly-bezvisty-majzhe-19-000-lyudej-shho-robyty-yakshho-vtratyly-zvyazok-z-blyzkymy/</a>	32 <a href="https://graty.me/news/misiya-oon-zadokumentuvala-strati-32-ukra%D1%97nskih-vijskovopolonienih-i-prinajmni-odnu-smert-u-rosijskomu-poloniv-tortur-za-czyu-zimu/">https://graty.me/news/misiya-oon-zadokumentuvala-strati-32-ukra%D1%97nskih-vijskovopolonienih-i-prinajmni-odnu-smert-u-rosijskomu-poloniv-tortur-za-czyu-zimu/</a>	79 <a href="https://suspilne.media/939743-v-oon-zafiksuvali-79-strat-ukrainskih-vijskovopolonienih/">https://suspilne.media/939743-v-oon-zafiksuvali-79-strat-ukrainskih-vijskovopolonienih/</a>	177 <a href="https://suspilne.media/939743-v-oon-zafiksuvali-79-strat-ukrainskih-vijskovopolonienih/">https://suspilne.media/939743-v-oon-zafiksuvali-79-strat-ukrainskih-vijskovopolonienih/</a>
Number of prisoner of war exchanges	20	28	11	59 <a href="https://armyinform.com.ua/2024/12/31/u-koordinatsii-povidomyly-skilky-ukrayincziv-povernuly-z-rosijskogo-polonu-v-2024-roci/">https://armyinform.com.ua/2024/12/31/u-koordinatsii-povidomyly-skilky-ukrayincziv-povernuly-z-rosijskogo-polonu-v-2024-roci/</a>
Number of people released	802	1002 <a href="https://suspilne.media/918281-u-gur-rozpovili-skilko-polonienih-vdalosa-povernuti-z-rf-u-2024-roci/">https://suspilne.media/918281-u-gur-rozpovili-skilko-polonienih-vdalosa-povernuti-z-rf-u-2024-roci/</a>	1358 <a href="https://suspilne.media/918281-u-gur-rozpovili-skilko-polonienih-vdalosa-povernuti-z-rf-u-2024-roci/">https://suspilne.media/918281-u-gur-rozpovili-skilko-polonienih-vdalosa-povernuti-z-rf-u-2024-roci/</a>	3767 <a href="https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/">https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/</a>
Number of missing persons	19 000 <a href="https://zaborona.com/v-ukrayini-za-2022-rik-znykly-bezvisty-majzhe-19-000-lyudej-shho-robyty-yakshho-vtratyly-zvyazok-z-blyzkymy/">https://zaborona.com/v-ukrayini-za-2022-rik-znykly-bezvisty-majzhe-19-000-lyudej-shho-robyty-yakshho-vtratyly-zvyazok-z-blyzkymy/</a>	30 000 <a href="https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/">https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/</a>	52673 <a href="https://texty.org.ua/fragments/112543/ponad-52-tysyachi-lyudej-u-rozshuku-vid-pochatku-velykoyi-vijny-doslidzhennya-textyorgua/">https://texty.org.ua/fragments/112543/ponad-52-tysyachi-lyudej-u-rozshuku-vid-pochatku-velykoyi-vijny-doslidzhennya-textyorgua/</a>	More than 71,000 <a href="https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/">https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/</a>
Number of people in captivity	No data available	4337 <a href="https://www.bbc.com/ukrainian/articles/c4ny94ndqp4o">https://www.bbc.com/ukrainian/articles/c4ny94ndqp4o</a>	13000 <a href="https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/">https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/</a>	14000 <a href="https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/">https://zmina.info/news/u-zviti-amnesty-international-ukrane-ne-zgadyetsya-pro-rosijskyh-vijskovopolonienih-oskilky-ukrayina-ne-porushuye-zhenevski-konvenciyi/</a>



around the condemnation of the crimes of the Russian regime through the adoption of new resolutions by the UN, OSCE and other influential international institutions.

### **3. Analysis of the World Experience of Responding to Threats in the Field of Military Security**

In the authors' opinion, an important task for Ukraine is to attract competent experts to solve military security problems. One can safely assert that Ukrainians have formed an intellectual, conscious civilian stratum of society that is able to offer a way out of the crisis and, therefore, to arm them with knowledge and ideas. The most important thing is to scale these ideas in favour of strengthening military security.

The vulnerability of Ukraine's military security sector is caused by the existence of problems, lack of a systematic approach, unprofessionalism of managers, and the priority of Soviet narratives for a long time.

Given the power of arguments and facts, the study of experience is a form of such consideration of arguments. Experience is not created by theory, but only by practice. This is what gives it value (Meiko, Torichny, Melnychuk, 2024).

It was decided to start analysing the experience with the country of Israel, which resumed its existence just 80 years ago. It is worth noting that modern Israel has managed to gain the trust of countries around the world, primarily European ones, and become more pro-European than Ukraine, which is located in the eastern part of Europe.

In the process of forming the state, Israel turned to managers with military experience in its personnel policy. This approach is considered to be preventive, since a person familiar with military affairs is able to identify threats to both military and national security. Another important fact is the training and internships of Israeli military personnel in countries with a high level of development, and as a result, the formation of its own army model, rather than a template of a particular country's army.

Among the world's practices of responding to threats in the field of military security, the United Kingdom deserves special attention, as it has created a model of state functioning since the 19th century, which is now used as a basis by many high-level development countries (Reznikova, 2020). The UK's threat response is based on the interaction of a wide range of experts at different levels, from local to national, and with both horizontal and vertical links. Each level of response involves a comprehensive assessment of risks and threats, which is implemented consistently. Thus, it can be stated that the British approach to threat assessment is pragmatic and balanced.

The manifestations of this state approach can be seen in the country's strategies. Ukraine does not have such experience, and the West is actively turning to strategic planning, making adjustments depending on the situation. Therefore, the UK's strategic documents provide for the preparation of an annual analytical report on possible threats to military security. To carry out such analyses, it is necessary to create appropriate institutions with specialists (Meiko, Torichny, Melnychuk, 2024).

Since 2008, the UK has maintained a National Civilian Risk Register, and since 2010, a National Security Risk Register. The document "National Security Risk Assessment" contains an analysis of threats in the field of military security with their gradation into short-term and long-term manifestations in the future. These processes were made possible by a substantial system of organisational support for threat and risk analysis: working groups, interagency interactions, individual institutions, co-operation between government and academic institutions, and so forth (Reznikova, 2020). Thus, the UK is implementing multidimensionality and multifunctionality in addressing the problem of assessing and responding to threats in the field of military security.

The Kingdom of the Netherlands is characterised by the experience of the first revolutions in Europe, the authorship of Nordic humanism, the first economic reforms and social development crises. The Netherlands is an example of the implementation of a systemic policy, which means that the problem of responding to threats in the field of military security is a priority. As in the UK, the Netherlands is shaping its National Security Strategy, with regular planning cycles and updates. In 2014, the National Risk Profile, later called the National Security Horizon Scan, was developed for the first time. The characteristic features of the documents are analysis, modelling and presentation of all possible scenarios. For Ukraine, it is desirable to take into account not only the need to develop relevant documents, but also the training of a wide range of experts. Professionalism, competence and professionalism are the key requirements for threat analysts in the field of military security (Reznikova, 2020).

The countries with a high level of development, which are generally considered to be the West, were not prepared for the scale of the war that Russia waged against Ukraine. In turn, Ukraine, being in a state of transformation and ineffective functioning of state institutions, has become extremely vulnerable to threats in the military security environment.

An important task for Ukraine is to form its own security architecture, because, as noted above, the current one, even at the global level, is not effective. Ukraine's system of responding to threats in the field of military security will be unique, as it will combine

both Western and Eastern models. Such a model will create opportunities for timely identification of existing obvious threats and hidden predictable ones; eliminate vulnerabilities and strengthen the advantages of the Ukrainian state and society as a single organism.

According to the authors, it is also necessary to address the problem of tools, algorithms and mechanisms for assessing threats in the field of military security. In particular, it is about the methods of risk assessment, which are eclectic today, as sciences develop them on the verge of several, not just one.

#### **4. Peculiarities of the Formation of the System of Social Protection and Social Security of Combatants in Ukraine**

##### **4.1. Peculiarities of the Formation of the Social Protection System for Military Personnel**

Social protection in the AFU is implemented through the provision of social assistance, benefits and compensations to servicemen and their families, as well as other categories of citizens defined by law, in accordance with the current laws (Sheverdina, 2024). This implementation of the principles and main directions of social policy is carried out through: the social protection system, which includes economic and legal measures guaranteed by the Constitution of Ukraine to provide people in difficult life situations with the conditions to overcome these difficulties and to participate equally in public life; the social protection system through compulsory social insurance and additional social assistance; social assistance, which includes various measures to ensure social protection of citizens, such as the provision of material assistance and social services.

When defining the concept of social security of servicemen and its types, it should be noted that there is no legislative definition of them, unlike the concept of social protection of servicemen. Thus, according to the Law, social protection of servicemen is an activity (function) of the state aimed at establishing a system of legal and social guarantees that ensure the exercise of constitutional rights and freedoms, satisfaction of material and spiritual needs of servicemen in accordance with the special type of their service activity, status in society, and maintenance of social stability in the military environment. This is the right to provide them with benefits in the event of full, partial or temporary disability, loss of the breadwinner, unemployment due to circumstances beyond their control, old age, as well as in other cases provided for by the Law (The Law of Ukraine "On Social and Legal Protection of Persons Deprived of Personal Liberty as a Result

of Armed Aggression against Ukraine and Members of Their Families", 2022). The main purpose of social protection of military personnel is to provide comprehensive support to personnel and their families, which compensates for the restrictions imposed on the military in the current legislation and the conditions of service that are specific to this category of employees.

The difference between social protection of servicemen and social protection of other able-bodied citizens is that servicemen, while fulfilling their constitutional duty to defend the Homeland, are limited in a number of constitutional rights and freedoms. Thus, given these circumstances, it is necessary to take specific measures to reduce or prevent the negative impact of social risks on servicemen who, due to the nature of their service activities, do not have other sources of decent living (Bazylenko, Leniyskyi, Maslyanikova, 2024).

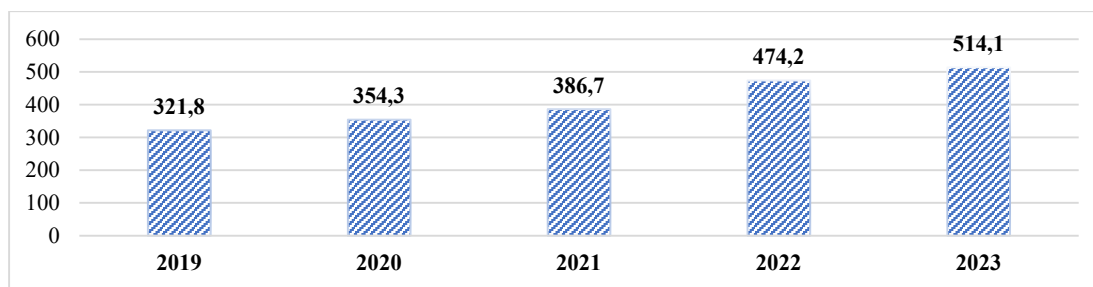
Stativka N.V. (Gordienko, Stativka, 2021) shares the opinion that the term "social security" should be used for military personnel and their families, while the term "social protection" can be applied to persons who have been discharged from military service and have lost the ability to provide for themselves and their families at the appropriate level. His position defines social security of servicemen as a system of economic and legal measures aimed at providing servicemen with an appropriate level of financial, medical, housing, clothing, food and other types of support by the state. This point of view indicates the importance of taking into account the peculiarities of military service and the needs of servicemen for social security, which should be appropriate to the nature of their service activities.

This approach involves providing the necessary resources to ensure their life and functioning, taking into account the challenges and risks associated with the specifics of military service (Sheverdina, 2024).

The system of material support, which Shyshliuk M.O. considers to be an additional type of social protection for servicemen, includes monetary, housing, clothing, medical and food support. This emphasises the comprehensive nature of social support, which should cover various aspects of the lives of servicemen and their families to ensure a full and comfortable existence, taking into account their service specifics and characteristics (Bazylenko, Leniyskyi, Maslyanikova, 2024).

These different aspects of welfare point to the comprehensive nature of social protection for servicemen and women, which covers different areas of their lives.

In order to understand the problem comprehensively, it is necessary to examine Figure 1, which shows the total social security expenditures in Ukraine for the period 2019-2023.



**Figure 1. Total social security expenditures in Ukraine in 2019-2023**

*Source: compiled on the basis of (The Ministry of Finance of Ukraine, 2023)*

As can be seen, total social security expenditures have increased significantly due to economic and social challenges. While in 2019, expenditures amounted to 321.8 billion UAH, in 2023 they increased significantly to 514.1 billion UAH. The 60% increase is due to the war, demographic changes and inflation. The war has led to an increase in the number of people in need of social assistance: IDPs, military personnel, veterans, families of the dead and injured. Recently, a situation has arisen where the state, having legally granted military personnel a special social status with all the rights, is actually unable to ensure their full implementation (The Ministry of Finance of Ukraine, 2023).

The concept of national security assigns the armed forces the main role in ensuring the military security of the country. At the same time, the armed forces should be able to respond adequately to threats that may arise, while spending rationally on national defence. In these circumstances, the issues of protecting and improving the level of satisfaction of the socio-economic interests of military personnel and citizens exempt from military service and their families are of particular importance. The authors believe that this is the most important integral component of the military reform of Ukraine, which is currently underway, should meet the real problems of defence.

The main focus of such a reform should be to develop the capabilities of the MoD and the Armed Forces in line with Euro-Atlantic norms and NATO membership criteria. To ensure the implementation of this reform, it is planned to amend the laws of Ukraine and other regulatory acts in various areas, including improving legislation on strengthening the social protection of military personnel and their families, maintaining the required level of social standards for military service and service in the military reserve; bringing the level of material and other types of support for servicemen in line with the rights and freedoms established for them by law, taking into account the risks to their life and health, difficult social and living conditions of military service (Khoroshev, 2024).

In the developed countries of the world, the problems of protecting military personnel are solved through the complex interaction of all factors that provide this category with normal conditions for everyday life and the quality performance of their duties. The current system of social security and protection of military personnel in Ukraine is not able to meet modern requirements. The study of foreign experience can help to change the current situation and create a system of social security and protection for the armies of foreign countries for its possible application in the context of the military reform of the AFU.

#### **4.2. Identification of the Main Problems of Forming a System of Social Protection and Social Security for Combatants**

The main problem in the issue of social protection of combatants remains the tendency to increase the number of this category of persons, the uncertainty of strategic priorities of the state policy of their social protection, the need to reform privileges and material support. In order to activate the social protection system, it is necessary to identify available resources, structure the needs, forms and tools of social protection, introduce novelties and innovations, and use the potential of individuals to protect themselves.

Thus, in order to form an active model of social protection policy for combatants, one can conclude that the following instruments can be effective (Gordienko, Stativka, 2021):

- a) Ensuring the effectiveness of the new active social protection system;
- b) identification of areas of social protection in line with real social needs, using the best available resources;
- c) balance of powers and social responsibility, the essence of which is the effective division of powers and responsibilities between public authorities with a clear definition of their functions;
- d) publicity and openness, which requires the involvement of citizens in the formation and implementation of social protection policy;



e) psychological rehabilitation and social and labour adaptation;

f) social partnership, mutually beneficial co-operation between state structures, business structures and public organisations on the basis of coordination of common interests, constructive interaction to solve urgent public economic and social problems (Sheverdina, 2024).

Social policy should move away from paternalism and towards partnership-based regulation of social relations. The use of new tools, innovations and innovations will create a flexible system of social stability and increase the effectiveness of social protection (Bazylenko, Leniushkiy, Maslyanikova, 2024).

## 5. Conclusions

In the context of the Russian-Ukrainian war, the issue of implementing and guaranteeing the rights and interests of prisoners of war, regulating the activities of relevant state bodies and officials, and bringing the aggressor country to international responsibility for their violations is particularly relevant.

The system of legal acts of international humanitarian law defines the rights and obligations of prisoners of war and the procedure for their detention by states in the framework of international obligations. The Geneva Convention relative to the Treatment of Prisoners of War of 12.08.1949 is of particular importance in determining the legal status of prisoners of war in armed conflict, as this international treaty establishes rules and standards for the protection of prisoners of war during armed conflict, their rights and obligations, as well as the obligations of the states that hold them.

The structure of the legal status of a prisoner of war is as follows:

1) The rights of a prisoner of war (general human rights and special status rights of a prisoner of war), a significant part of the rights of prisoners of war is enshrined in the Convention by comparing legal situations with similar ones that apply to persons from the armed forces of the state that holds them captive;

2) the duties of a prisoner of war (subject to the laws, regulations and orders in force in the armed forces of the state holding him captive, to disclose personal data);

3) guarantees of their implementation by the state that holds a prisoner of war in captivity;

4) legal liability of a prisoner of war (disciplinary and criminal liability).

Thus, based on the norms of international humanitarian law, which are guarantees of human

rights and freedoms, it can be argued that the legal status of prisoners of war, which is determined by a number of international legal acts, affects the practice of law enforcement, which determines the rules for their treatment and the legality of certain actions of state bodies in relation to such persons, namely the possibilities, content, and scope of their influence. In addition, IHL defines the rights and obligations of prisoners of war and the requirements for countries holding military personnel in captivity to treat them, where compliance with such rules is an international obligation.

It is worth noting that the system of prisoners of war rights provides for both special and general rights, where the former relate to prisoners of war and the latter apply to all persons. It is also determined that the grounds for bringing prisoners of war to legal responsibility have their own peculiarities, which, for example, include the right to participate in hostilities without being held liable for it. At the same time, such immunity does not apply to cases of crimes committed by the military during armed conflict.

The justification of the process of planning actions to respond to threats and challenges of a military nature depends on the following conditions: the level of certainty of the situation and its changes; the degree of certainty of the interdependence of the purpose, functions and tasks of responding to threats and challenges in the field of military security; certainty of the components, structure, tasks and functions of responding to threats, its individual subjects, their interaction; the state of functioning of information, analytical, scientific, methodological, organisational, technical, resource and legal support, etc. These conditions are not interconnected and have a complex and ambiguous impact on planning for responding to threats and challenges in the field of military security.

The peculiarities of the system of socio-economic protection of combatants are: specific subject composition of legal relations arising in the course of socio-economic protection; special legal status of subjects of social protection; specific elemental composition of social protection, which covers virtually all spheres of public life.

Problems in the area of social protection of combatants in Ukraine lead to a number of negative socio-political processes in the country. In particular, the standard of living of this category of citizens is declining, and public confidence in the state and its agencies is being undermined. The social protection system needs to be reviewed in many aspects, one of the most important of which is the legal regulation of this area.



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