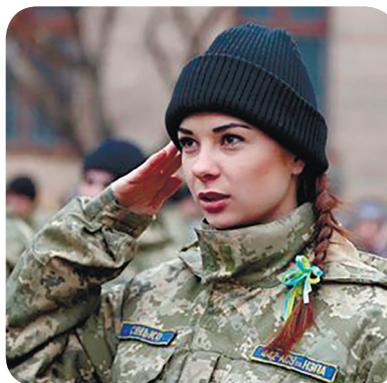




*Institute of Gender Programs*  
*Інститут Гендерних Програм*

Philipp Fluri, Maria Berlinska, Valentyn Badrack

# **WOMEN IN THE UKRAINIAN SECURITY SECTOR: LEGISLATION AND CURRENT PRACTICES**



Kyiv - Geneva, 2016

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The study is performed by the experts from the Institute of Gender Programs and the Center for Army, Conversion and Disarmament Studies (CACDS) with financial support from Geneva Center for Democratic Control over Armed Forces (DCAF).

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## **PREFACE**

Philipp Fluri  
Deputy Director DCAF

The conflict in the south east Ukraine has made it clear that there are a broad range of citizens – male and female, civilian and enlisted military – determined to volunteer their services to assist not only in the ATO area but in the reform of a variety of defence and broader security structures.

Ukrainian society has undergone fundamental changes in the approach to the perception of gender relations since 1990 – ironically after the end of the Soviet Union. A successful regulation of gender relations in society does, however, presuppose more than perceptions. The values of gender equality in society has to be enshrined in laws, institutions, policies and practices.

The Armed Forces at all levels are not exempt from gender equality principles, and neither are the ministries representing the defence and security sector at governmental level. With the existence of a volunteer movement supporting – or even being the sole providers of - a variety of traditionally “military-only” activities, the need for clear guidance on gender issues during the current reform process is clear.

In line with other legal studies and documentations published by DCAF, this study preliminarily addresses the Ukrainian legislation regulating gender aspects of the defence and security sector of Ukraine. The apparent dearth of information is not due to the lack of industriousness of the commentators but to the lack of aggregated policies and legislation on the issue. There is obviously a lot left to do, both in the legislative field, and the areas of policies and practices.

Geneva, June 2016

## PREFACE

Maria Berlinska  
Head of the Institute of Gender Programs

All progressive processes in society have a starting point. The survey which you are holding in your hands started with the civic initiative «Invisible Battalion» and logically continued the previous process of change. Now, Google produces 150 000 results in response to the Invisible Battalion search query. I will try to explain what the Invisible Battalion means in more plain words and in more detail than Google.

With the beginning of the military campaign in Ukraine I volunteered for air reconnaissance for our army. I never planned a military career before or afterwards, my presence in the military campaign was a forced step to counter the Russian occupation of my country.

However, every time, coming to act in the ATO area, I noticed that women who volunteered to defend their Motherland, as I did, had a half-legal status. Women who actually were snipers, reconnaissance officers, grenade launcher operators – that is, performed combat missions – were officially enrolled as cooks, needlewomen or record keepers. Women were also not admitted to key positions in military command.

Clear thing, this influenced their pay, the attitude of their commanders, their social status and further military career. In addition to evident discrimination on gender grounds, I saw this situation as impairment of Ukraine's defence capability. After all, if half of society is not allowed to effectively defend its independence, the entire society loses 50% of potential productivity in the end result.

Therefore, I decided to survey this issue in more detail, to understand how the professional competence of women could be better used in wartime. This gave rise to the «Invisible Battalion» project - the first in Ukraine sociological survey of women's participation in the Ukraine-Russian war, as well as a unique photo project with portraits of 50 women who took part in combat operations.

The project found support of international institutions – the Ukrainian Women's Fund and UN Women. However, after the presentation of the survey results the «Invisible Battalion» acquired such publicity that it immediately turned a powerful civic campaign pushing for changes in the legislation. For several months, male and female activists spoke about the possibility of full-scale military service of women in mass

media, Parliament, international organisations, and once even came with these demands to the door of the Defence Ministry. The Ministry leadership has announced that those changes will take place soon.

To simplify and accelerate the process, DCAF in the person of Philipp Fluri together with known Ukrainian military experts Leonid Polyakov and Valentyn Badrack invited me to coordinate the survey of the legal side of the question.

As the head of the Institute of Gender Programs, I see this initiative as undoubtedly promoting democracy, gender equality and, the main thing, strengthening Ukrainian society in this difficult time.

I hope that through joint efforts, we will have professional and efficient power structures in the foreseeable future, which will bring security to both Ukraine and the European Union.

Kyiv, June 2016

## PREFACE

Valentyn Badrack  
Director CACDS

The issue of gender equality in Ukraine's power structures acquires particular importance. It should be admitted that manning of the Armed Forces of Ukraine (AFU), the State Border Service of Ukraine (SBSU) and the National Guard of Ukraine (NGU) still largely rests on the traditions of the Soviet times, when the role and abilities of women in the power structures were strictly limited. In fact, women were only engaged for service in certain positions in headquarters, communications centres, press services and military medical units.

The issue of gender equality in the power structures and the role of women in the conditions of a conflict is especially topical, given that a war is waged on the country's territory for more than two years now, and quite many women take part in the defence of the state as volunteers. This even more requires perfection of the regulatory-legal framework and the very approaches of the authorities to the implementation of the human resources policy in the power structures.

Speaking about the existence of a "specific" attitude to women, experts reasonably mention some orders of the Ministry of Defence of Ukraine, the Ministry of Internal Affairs of Ukraine and the State Border Service of Ukraine that limit engagement of women for performance of specific tasks, in particular, participation of women in combat operations and ability to occupy some positions. Experts also note that the prejudiced attitude of servicemen, commanders, society to women in fact owes to legislative norms providing for a specific, more uncensorious attitude to servicewomen, compared to men.

Meanwhile, the Ministry of Defence, too, believes that it is impossible to entirely do away with the differences in the status of women and men in the Armed Forces during military service. According to the defence establishment position, it is not about the discriminatory policy of the bodies of state power but about Ukraine's obligations under the International Maternity Protection Convention and, respectively, effectiveness of the Law of Ukraine "On Labour Protection" and the Ministry of Public Health Order dated 29 December 1993 № 256 "On Approval of the List of Hard Works and Works in Hazardous and Dangerous Conditions, Where Employment of Women's Labour is Forbidden". However, the relevant provisions of the Ukrainian legislation also

require revision, since they do not rest on international norms but almost literally reproduce regulatory acts of the Soviet times.

It should also be added that the General Staff of the Armed Forces of Ukraine is currently drafting changes to the Regulations of the Armed Forces of Ukraine, providing for equal rights of servicewomen and servicemen in everyday activity.

All the mentioned obstacles for women in the national power structures point to the need of urgent revision of norms and the legislative framework, especially in the context of the defence reform and Euro-Atlantic integration of Ukraine. Ukraine in fact remains a state that historically inherited many mental nodes. The attitude to servicewomen is certainly one of them. So, the existence of relevant analytical materials and ready-to-use recommendations of concerned organisations may seriously push the authorities to implement changes, concerning engagement of women for military service.

Kyiv, June 2016

## INTRODUCTION

For Ukraine, the issue of gender equality in power structures and the role of women in the conditions of a conflict is especially topical, given the war waged on the country's territory for more than two years now under the official name of an "anti-terrorist operation", or "contingency". The practice proves that power structures have a "specific" attitude to women. Stereotypes about the role of women dominating Ukrainian society grow in the conservative culture of the security and defence sector. Under the pretext of protection of women and maternity, care about women's health and account of women's abilities, Ukraine's legislation abounds in discriminatory provisions. In particular, orders of the Ministry of Defence and the Armed Forces of Ukraine (hereinafter – "MOD", "AFU"), the National Guard of Ukraine (hereinafter – "NGU") and the State Border Service of Ukraine (hereinafter – "SBSU") restrict engagement of women for performance of certain tasks, their participation in combat operations, ability to occupy some positions. That said, provisions of the legislation contain not dispositive but expressly prohibitive norms. In other words, the legislation does not give servicewoman the right to escape participation in especially dangerous missions, if they wish, but imposes a direct ban on such participation, even in presence of a good will and proper skills. Inability of official participation in some activities makes women to search for alternative opportunities to use their knowledge, abilities and skills in the trade of war. As a result, perfect snipers are officially enrolled as cooks, with the corresponding official pay and impossibility to get proper letters of commendation, military ranks and further career growth in military service.

Meanwhile, the effective legislation restricts the rights not only of women but also of men, raising the issue of gender equality to an entirely different level. In particular, regulatory-legal acts are written so that servicemen actually cannot actively participate in the life of their own family, take a childcare leave etc.

In addition to a prejudiced attitude, the women who opted for a career in the security and defence sector every day encounter a number of regulatory obstacles for professional growth and development. Those problems may be summed up as follows:

1. Although the law provides that during military service servicewomen enjoy the same rights and freedoms as men, Ukraine's regulatory-legal framework still **makes distinctions between the official positions of servicewomen and servicemen**. For instance, in accordance with the Law of Ukraine «On Military Duty and Military Service» dated 25.03.1992 №2233-XII, the age limit for servicewomen is set equal to 50 years (10 years lower than for men), women cannot be included in the primary

operational reserve, even if they have a military occupational specialty (all men, when dismissed from service, are automatically included in the primary operational reserve).

**2. Restriction of the ability (right) to occupy certain positions.** The Minister of Defence Order dated 27.05.2014 № 337 «On Approval of Provisional Lists of Military Occupational and Regular Positions of Privates and Non-Commissioned Officers for Servicewomen and Position Wage Rates for the Above-Mentioned Military Servants» specifies the list of positions that cannot be filled by servicewomen, e.g.: sniper, field engineer, anti-aircraft gunner. According to the same Order, women are not appointed to officer positions dealing with management of explosives, diving operations, command and control of brigades of surface ships and naval operation centres, as well as some positions in special forces.

**3. The prejudiced attitude of servicemen, commanders, society to women** in fact owes to legislative norms providing for a specific, more uncensorious attitude to servicewomen, compared to men. For instance, servicewomen are not subject to administrative sanctions, military confinement for commitment of military administrative offences. Mitigation of responsibility, punishment and establishment of any other special conditions based on sex do not contribute to integration of women in a male team and furtherance of professional relations resting on the principles of equality. Similar discriminatory norms (Law of Ukraine “On Social and Legal Protection of Military Servants and Their Family Members”, Article 10-1) regiment the right to leave and rest (women have the right to childcare leave, while men do not have such right, hence, conditions are created whereby only a women will give up her career for the sake of parenthood).

**4. Absence of infrastructure facilities, specific norms of clothing and medical support for women.** Military units are not properly fitted out to let women serve in the army (there are no toilets, showers, separate barracks for women), no procedure of medical examination of women is provided, there are no physicians qualified in women’s medical health, women’s uniform and other personal items are not procured. Instruction manuals and orders of the Ministry of Defence of Ukraine, the Ministry of Internal Affairs of Ukraine, the National Guard of Ukraine and the State Border Service of Ukraine have no provisions whatsoever providing infrastructure and other conditions for the service of women in power structures.

Although the description of the above-mentioned problems mainly contains references to laws regimenting service in the Armed Forces, the situation with women serving in the units of the National Guard and the State Border Service is absolutely the same. The thing is that service in different power structures is largely regimented by common legislative acts describing general principles and approaches. Bylaws of every separate agency further describe the procedures of implementation of specific legislative norms in more detail.

For identification of the possible ways of solution of the problems described above, it is proposed to perform a review of the key legislative acts and bylaws regimenting the procedures of service in AFU, NGU and SBSU for their compliance to the principle of gender equality. The survey is presented in the format of a table containing the title of the regulatory-legal act, a quotation of the provision containing a discriminatory or gender-related wording, and a legal opinion of compliance of that provision to the principle of gender equality. The first part of the table bears analysis of regulatory-legal acts regimenting the activity of all the three power structures covered by this review; the following three parts review regulatory-legal acts regimenting the procedures of service in the Armed Forces of Ukraine, the National Guard of Ukraine and the State Border Service of Ukraine. The table is followed by conclusions and recommendations advising on possible ways of solution of the gender issue in the state power structures.

**REVIEW OF REGULATORY-LEGAL ACTS REGIMENTING SERVICE IN THE ARMED FORCES OF UKRAINE,  
NATIONAL GUARD OF UKRAINE AND STATE BORDER SERVICE OF UKRAINE**

№	Title of the regulatory-legal act	Provision	Legal analysis
<b>I. Regulatory-legal acts regimenting military service (common for AFU, NGU and SBSU)</b>			
<b>Laws of Ukraine</b>			
1	On Military Duty and Military Service	<p><b>Article 20.</b> The Contractual Basis for Enlistment in Military Service</p> <p>1. Citizens who pass the professional and psychological selection and meet the requirements of military service can be enlisted in military service on a contractual basis:</p> <p>Enlisted servicemen in regular military service, who serve under conscription or under mobilisation during the special period, citizens of call-up age who have undertaken higher, vocational or completed secondary education and have not yet passed regular military service, persons liable for military service as well as women who do not have military ranks as officers, have a relevant education, undertaken special preparation and are between 18-40 years of age – for military service on a contractual basis as privates, sergeants and sergeant-majors;</p> <p>...</p> <p>2. For military service on a contractual basis as officers in the Security Service of Ukraine, intelligence services of Ukraine and the Department of the State Protection of Ukraine are enlisted citizens of Ukraine who have completed a higher level of education no lower than a bachelor's degree and specialised in a field that corresponds to the type of service concerned and who have not reached the age limit required for officer service,</p>	<p>Pursuant to items 1 and 2, part 1, Article 20 of the Law, a woman may sign a contract of military service in the age of 18 to 40 years. Meanwhile, there is no such restriction for men.</p> <p>Furthermore, given that the age limit for reserve service of women liable to duty (irrespective of the military ranks conferred to them) is 50 years, women in the age of 40 to 50 years (by contrast to men) cannot make a contract of military service.</p> <p>It is proposed to equate the age limit for conclusion of contracts of military service for women with the age limit of reserve service.</p>

	<p>servicemen in regular military service who have served for no less than six months, privates, sergeants and sergeant-majors in contractual military service, persons liable for service and women under 40 years of age.</p> <p><b>Article 28.</b> Reserve Classes and Service Age Limits for Persons Liable for Military Service in the Reserve</p> <ol style="list-style-type: none"> <li>1. Persons liable for military service in the reserve are divided into two classes, which are established in accordance with their age.</li> <li>2. Persons liable for military service in the reserve who have the ranks of privates, sergeants and sergeant-majors are divided into the following age classes: <ol style="list-style-type: none"> <li>1) first class - up to 35 years;</li> <li>2) second class - up to 60 years;</li> </ol> </li> <li>3. Officers in the reserve are divided into the following age classes: <ol style="list-style-type: none"> <li>1) first class: <ul style="list-style-type: none"> <li>• junior officers - up to 45 years;</li> <li>• rank of senior officers;</li> <li>• major (captain of the 3<sup>rd</sup> rank), lieutenant colonel (captain of the 2<sup>nd</sup> rank) - up to 50 years;</li> <li>• colonel (the captain of 1<sup>st</sup> rank) - up to 55 years;</li> <li>• superior officers - up to 60 years;</li> </ul> </li> <li>2) second class: <ul style="list-style-type: none"> <li>• junior and senior officers - up to 60 years;</li> <li>• superior officers - up to 65 years;</li> </ul> </li> </ol> </li> <li>4. The age limit for the second category in the reserve is equivalent to the age limit for the military reserve.</li> <li>5. Irrespective of their rank, women liable for military service are transferred to the reserve of the second class. The service age limit in the reserve for women is – 50 years.</li> </ol>	<p>Part 5 of article 28 provides that women liable to military service are relegated to the secondary reserve with the age limit of reserve service equal to 50 years. That said (by contrast to men), the military rank conferred to them is not taken into account.</p> <p>This provision effectively offsets women's achievements during military service. Irrespective of the obtained military rank (from a private to an Army General of Ukraine), all women liable to military service must retire in the same age.</p> <p>In addition, this provision puts men and women on unequal footing. On one hand, for men liable to military service who stay in the reserve and have military ranks of privates and non-commissioned officers and belong to the primary grade, the age limit of reserve service is set equal to 35 years, for men – junior officers – 45 years. Therefore, some categories of men may retire earlier than women.</p> <p>On the other hand, the age limit of reserve service for men is 65 years (for superior officers). Hence, men may serve in the reserve 15 years longer than women, which seriously undermines the right and ability of women liable to military service to get</p>
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<p>higher military ranks (article 31 of the Law of Ukraine «On Military Duty and Military Service» allows conferment of higher military ranks during reserve service). The Law of Ukraine «On Pensions for Persons Dismissed from Military Service and Some Other Persons» provides that the calculation of the pension takes into account the military rank. Therefore, women liable to military service potentially may have a lower pension.</p> <p>It is proposed to do away with the distinction of women in a separate category and to equate them to men.</p>	<p>higher military ranks (article 31 of the Law of Ukraine «On Military Duty and Military Service» allows conferment of higher military ranks during reserve service). The Law of Ukraine «On Pensions for Persons Dismissed from Military Service and Some Other Persons» provides that the calculation of the pension takes into account the military rank. Therefore, women liable to military service potentially may have a lower pension.</p> <p>It is proposed to do away with the distinction of women in a separate category and to equate them to men.</p>	
<p>Male conscripts are relegated to the primary military reserve, if they got a military occupational specialty. Meanwhile, women liable to military service, irrespective of the obtained military occupational specialty, are relegated to the secondary reserve. Such provision downplays achievements of a servicewoman and lowers her value as a professional.</p> <p>It is proposed to do away with the distinction of women in a separate category and to equate them to men.</p>	<p><b>Article 27. Transfer to the Reserve. Categories of Servicemen in the Reserve</b></p> <ol style="list-style-type: none"> <li>1. Citizens of Ukraine fit for military service for health reasons in peace and wartime and who have not reached the service age limit are transferred to the reserve of the Armed Forces of Ukraine and other military formations. They are registered with enlistment offices in regional (city) military commissariats and the relevant bodies of other military formations.</li> <li>2. Persons liable for military service in the reserve are divided into two categories. 3. Persons liable for military service who have carried out military service and have acquired a military specialty while in the service belong to the reserve of the first category.</li> <li>4. Persons liable for military service who have not acquired a military specialty during military service, persons who have not carried out military service, as well as women liable for military service belong to the reserve of the second category.</li> <li>5. If persons liable for military service who belong to the reserve of the second category acquire a military specialty</li> </ol>	

	<p>while on the list of reserve or serving in the military reserve, they are transferred to the reserve of the first category (except for women liable for military service).</p> <p><b>Article 26. Discharge from military service</b></p> <p>...</p> <p>2) for all officers:</p> <p>...</p> <p>d) in connection with the start of the special period and absence of intention to continue the military service on the part of woman military serviceman, who has a child (children) under the age of 18.</p> <p>...</p> <p>6. Contract shall be postponed (cancelled) and military servicemen shall be discharged from military service:</p> <p>...</p> <p>k) ) in connection with the start of the special period and absence of intention to continue the military service on the part of woman military serviceman, who has a child (children) under the age of 18;</p> <p>...</p> <p>7. For cadre service officers:</p> <p>...</p> <p>j) in connection with the start of the special period and absence of intention to continue the military service on the part of woman military serviceman, who has a child (children) under the age of 18.</p> <p>8. During the special period, the following military servicemen shall be discharged:</p> <p>1) from the time of announcement of mobilization until the time stipulated by clauses 2 and 3 of this Part:</p> <p>a) women, who have a child (children) under the age of 18, in</p>	<p>During a contingency, a servicewoman who has a child aged under 18 years may be dismissed, if she is unwilling to continue military service. Men do not enjoy such a right. This results in a situation where in the families of military servants it is the woman who has to resign from military service, sacrificing her career, since she alone is given an opportunity to look after the child.</p> <p>It is proposed to supplement these provisions with the right to dismissal granted to one spouse at their choice, if both spouses serve in the military.</p> <p>However, even with account of the above proposal, article 26 will still grant special rights solely to women – if a woman is the only family member serving in the army, she may resign from military service, but if only a man serves in the army in a family, he cannot resign. So, it is proposed to supplement this provision and to give servicemen who bring up a child on their own the right to resign from service to bring up a child.</p> <p>Men and women can be fully equated, if these provisions are removed or both women and men get the right to resign if they have a child under 18 years. These provisions protect children in case of a</p>
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		<p>case they did not indicate their intention to continue the military service;</p>	<p>possible death of the mother in combat operations (if the woman herself does not want to continue service). Hence, if these provisions are cancelled, such guarantee will disappear, and the gender status of women will not improve. Apparently, the best way to resolve the issue will be to give both women and men the right to resign from service for childcare.</p>
		<p><b>Article 30.</b> Exemption from Training Sessions</p> <p>1. The following persons (except for those serving in the reserve) are exempt from regular training sessions:</p> <p>... 7) women liable for military service except for control training sessions;</p>	<p>Item 7 of part 1, article 30, releases women liable to military service from military training for reservists (except control training sessions). Such provision unreasonably undermines military preparedness of a woman in case of her mobilisation in a contingency.</p>
2	On the Barracks Regulations of the Armed Forces of Ukraine	<p>131. ... Servicewomen are accommodated in separate service residential premises.</p>	<p>In the context of the equation of the age limit for retirement from the reserve for men and women proposed above, it is proposed to cancel this provision.</p> <p>The legislation provides that servicewomen are accommodated in separate premises. This norm is consistent with gender requirements and the foreign practice (in particular, a similar requirement is found in the US legislation).<sup>1</sup></p> <p>However, in reality, this norm is not implemented.<sup>2</sup> Women have to live together with men.<sup>3</sup> This</p>

<sup>1</sup> 10 USC 4319: Racial and ethnic issues; gender issues: surveys, accessed 5 June, 2016, available at: <http://uscode.house.gov/view.xhtml?path=/prelim@title10/subtitleB/part3&edition=prelim>

<sup>2</sup> We are not cooks but real fighters, The war has not a woman's face? [electronic resource] / Natalia Plokhotniuk // *Vechirniy Kyiv* – 24.01.2016. – Access mode: <http://vechirniykyiv.com.ua/news/my-ne-kukharky-a-povnotsinni-biytsi-u-viyny-ne-zhinoche-oblychchya> (accessed: 04.06.2016; in Ukrainian).

<sup>3</sup> What does a woman do in the army? [electronic resource] / Insider – 11.02.2016. – Access mode: <http://www.theinsider.ua/lifestyle/5693d03401fe8/> (accessed: 04.06.2016; in Ukrainian).

		<p>269. As a rule, servicewomen are not assigned for day duty. Dependent on the military rank and position, if necessary, servicewomen may be appointed in line with the legislation as the duty paramedic (medical instructor), staff duty officer, dining-room orderly, headquarters orderly, duty person or orderly of a women's hostel. Servicewomen are also assigned for duty in accordance with their specialty.</p> <p>Annex 6 to the Barracks Regulations Procedure of questioning military servants</p>	<p>problem is especially acute in the context of actual participation of women in combat operations in the East of Ukraine.</p> <p>This provision provides a special procedure of assignment of servicewomen for day duty. Such special regimentation creates an atmosphere of inequality in the army, which entails a negative attitude of men to women. Furthermore, Article 269 unreasonably presumes that a woman cannot fulfil tasks of day duty.</p> <p>In view of the above, it is proposed to delete this article.</p> <p>Annex 6 specifies the procedure of questioning military servants. Questioning is performed in order to collect from military servants appeals and/or complaints about military service.</p> <p>It is proposed to introduce a special questioning form similar to the Armed Forces Workplace and Gender Relations Surveys held in the US Armed Forces<sup>4</sup>. The suggested purpose of such questioning is to identify and resolve the key problems of gender equality in the army.</p> <p>Article 8 contains the list of the garrison officials. None of the listed officials are directly responsible for gender equality and gender education, which runs contrary to NATO standards.<sup>5</sup></p>
3	<p>On the Garrison and Patrol Service Regulations of the Armed Forces of</p>	<p>8. In the garrisons that have several military units of the Armed Forces of Ukraine, the garrison commander by his order appoints senior officers in the relevant positions as:</p> <ul style="list-style-type: none"> <li>• deputy garrison commander;</li> </ul>	

<sup>4</sup> 10 USC 481: Racial and ethnic issues; gender issues: surveys, accessed 1 June 2016, available at: <http://uscode.house.gov/view.xhtml?req=military+women&f=treesort&fq=true&num=13&hl=true&edition=prelim&granuleid=USC-prelim-title10-section481>

<sup>5</sup> See: Committee on Women in the NATO Forces (CWINF), CWINF guidance for NATO Gender Mainstreaming, approved at the annual meeting in June 2007, accessed 31 May 2016, available at: [http://www.nato.int/issues/women\\_nato/cwinf\\_guidance.pdf](http://www.nato.int/issues/women_nato/cwinf_guidance.pdf)

Ukraine	<ul style="list-style-type: none"> <li>• deputy garrison commander for morale and welfare;</li> <li>• deputy garrison commander for logistics;</li> <li>• assistant to the garrison commander for legal issues;</li> <li>• chief signal officer of the garrison;</li> <li>• head of the garrison Apartment Management Unit;</li> <li>• head of the garrison financial-economic service;</li> <li>• head of the garrison medical service;</li> <li>• head of the garrison veterinary service;</li> <li>• chief ABC officer - head of the garrison environmental safety service;</li> <li>• head of the garrison fire safety service;</li> <li>• the garrison bandmaster.</li> </ul>	<p>It is proposed to introduce the position of a deputy garrison commander – advisor on gender issues, in line with CWINF recommendations.<sup>6</sup></p>
	<p>5. Military servants arrested or detained by the military police or other law-enforcement bodies are sent to the detention barracks under escort.</p> <p>...</p> <p>To escort military servants sentenced to arrest who are officers and warrant officers, the officer or warrant officer escort is assigned, respectively. To escort servicewomen to the place of punishment, escort is assigned, made up of servicewomen from the detention barracks military police by prior request of the general staffs of arms of the Armed Forces of Ukraine, staffs of operational commands, departments of the central staff of the Ministry of Defence of Ukraine, the General Staff of the Armed Forces of Ukraine and headquarters of other military formations.</p>	<p>This provision of the Garrison and Patrol Service Regulations provides that officers and warrant officers cannot be escorted by military servants of a lower rank. This provision is intended to preserve the authority of superior military servants versus inferior ones.</p> <p>Meanwhile, servicewomen may be escorted solely by servicewomen. This provision defends the authority of servicewomen versus servicemen. However, there is no limitation of the military rank of female escorts. Therefore, a female officer may be escorted by a female soldier, which puts women on unequal footing with men.</p>

<sup>6</sup> Ibid.

4	On the Disciplinary Regulations of the Armed Forces of Ukraine	<p>46. Physical coercion, special means and arms are used against sentenced military servants by the duty shift personnel and military officials of the garrison military police command and control body, the duty shift personnel and military officials of the garrison military police command and control body immediately report thereof to the garrison military police commander and notify the concerned prosecutor. Arms are not used against escaping servicewomen.</p> <p>46. For public influence on perpetrators of the military discipline and public order, prior to the imposition of punishment for offences, military servants may be reviewed, on a decision of the commander:</p> <ul style="list-style-type: none"> <li>• privates (seamen) — at personnel assemblies;</li> <li>• non-commissioned officers — at assemblies of non-commissioned officers;</li> <li>• warrant officers — at assemblies of warrant officers;</li> <li>• servicewomen — at assemblies of servicewomen in the military ranks (with positions) not below than the military rank (position) of the servicewoman whose offence is being reviewed;</li> <li>• officers — at assemblies of officers who have military ranks (occupy positions) not below than the military rank (position) of the officer whose offence is being reviewed.</li> </ul>	<p>Article 46 provides that arms are used against sentenced servicemen in accordance with the legislation. Meanwhile, arms are not used against escaping servicewomen.</p> <p>This provision sets unequal conditions for different sexes and creates prerequisites for breach of military discipline.</p>
5	On Social and Legal Protection of Military Servants and Their Family Members	<p><b>Article 10-1.</b> The right of servicemen to vacations. The procedure for granting a vacation to servicemen and recall from it  ...  14... When discharged from service under the first and second paragraph of this Clause, servicemen have the right</p>	<p>Article 46 provides that disciplinary offences committed by servicewomen are reviewed solely by servicewomen. Meanwhile, disciplinary offences committed by servicemen are reviewed with involvement of women.</p> <p>This provision hampers teambuilding in the army, made up of men and women alike. Therefore, it is proposed to remove such restrictions.</p>
			<p>Article 10-1 regulates the right of military servants to leave. The right to childcare leave is granted solely to women, while this right is not provided to men. Respectively, conditions arise, whereby a woman has to give up her career for the sake of parenthood.</p>

	<p>to receive monetary compensation for unused days of annual basic leave in the year of discharge and for days of additional leave, particularly female servicemen with children.</p> <p>...</p> <p>19. Providing servicemen with other types of leaves during the periods indicated in Articles 17 and 18 shall be halted, except for maternity leaves to female servicemen, child care leave till child becomes three years old or longer in accordance with medical recommendation in case a child needs home care, but not exceeding six years old, as well as leaves for disease treatment or leaves for recovering after heavy wound in compliance with military medical commission's recommendation.</p>	<p>It is proposed to equate servicewomen and servicemen in the right to childcare leave.</p>
	<p><b>Article 14.</b> Privileges of servicemen and members of their families</p> <p>...</p> <p>12. A serviceman in conscript military service, a contract serviceman, a cadre officer, an officer called up for military service, and a serviceman called up for military service during mobilisation for the special period (except for women liable for military service), if sentenced to a confinement in the disciplinary battalion of servicemen, he and his family members do not lose the right to privileges.</p>	<p>This norm guarantees preservation of social benefits for military servants and their family members even if a military servant is sentenced to a term in a penal battalion. This guarantee does not apply to women, because a term in a penal battalion as a kind of punishment is not applied to women.</p> <p>As noted below, it is proposed to cancel the restriction on women's sentencing to a penal battalion. Hence, the exception for women made in part 12 of article 14 should also be removed.</p>
	<p><b>Article 15.</b> Pensions and help</p> <p>...</p> <p>2. Servicemen, except for servicemen of conscript service, discharged from military service for health reasons, receive a one-time allowance equal to 50 per cent of monthly salary for every complete calendar year of service. In case of having been discharged from military service for reasons of age, in connection with staff</p>	<p>Part 2 of article 15 provides that one-time pecuniary assistance is paid upon dismissal from service to a woman who has a child (children) aged under 18 years, after serving 10 and more years.</p> <p>This norm is consistent with article 26 of the Law of Ukraine «On Military Duty and Military Service», providing that only a woman has the right to be</p>

	<p>reductions, in connection with direct subordination to close relative, with a systematic failure of commanders to fulfil contract terms, as well as in connection with introduction of the <i>special period</i> and refusal to continue military service by female serviceman who has a child (children) under the age of 18 after the expiration of a contract servicemen receive a one-time allowance equal to 50 per cent of monthly salary for every complete calendar year of service on the condition their term of service is in excess of 10 years.</p>	<p>dismissed in a contingency, if she has a child aged under 18 years. In view of the amendments to that article proposed above, we consider it necessary to make the relevant amendments in part 2 of article 15 of the Law of Ukraine «On Social and Legal Protection of Military Servants and Their Family Members».</p>
<p>6 On Pensions for Persons Dismissed from Military Service and Some Other Persons</p>	<p><b>Article 9.</b> Payment of the grant ... upon dismissal from service for the reason of health are paid an allowance at the rate of 50 per cent of a monthly monetary allowance for each full calendar year of service. In case of discharge from service for the reasons of age, in connection with staff reduction or organisational activities, in connection with direct subordination to close relative, systemic violation of the terms of contract by commanders, as well as in connection with introduction of the <i>special period</i> and refusal to continue military service by female serviceman who has a child (children) under the age of 16 are paid an allowance at the rate of 50 per cent of a monthly monetary allowance for each full calendar year of service when term of service is 10 years or higher.</p>	<p>This norm is similar to part 2, article 15 of the Law of Ukraine «On Social and Legal Protection of Military Servants and Their Family Members» (except the age of the child, set equal to 16 years), reviewed above. Similar proposals and comments apply to this norm, accordingly.</p>
<p>7 Criminal Code of Ukraine</p>	<p><b>Article 62.</b> Custody of military servants in a penal battalion 1. Punishment in the form of custody in a penal battalion is imposed on conscripts, military servants serving under a contract, career officers, drafted officers, military servants called up for military service during mobilisation in a contingency (except servicewomen), for a period from 6</p>	<p>Article 62 of the Criminal Code of Ukraine (hereinafter — “CCU”) provides that custody of military servants in a penal battalion cannot be applied to servicewomen. Such restriction undermines the establishment of proper military discipline, does not contribute to integration of</p>

		months to 2 years in cases provided by this Code, and if the court, taking into account the circumstances of the case and the person of the convict, deems it possible to replace imprisonment for not more than 2 years with custody in a penal battalion for the same term.	women in a male team and furtherance of professional relations resting on the principles of equality.
8	Code of Administrative Offences	<p><b>Article 32-1.</b> Military confinement</p> <p>Military confinement is imposed and applied in exceptional cases only, for specific military administrative offences, for the term of up to ten days. Military confinement is imposed by a district, city district, city or city-district court (judge).</p> <p>Military confinement cannot be applied to servicewomen.</p>	<p>Article 32-1 provides that military confinement cannot be applied to servicewomen. Similar to article 62 of CCU, this article provides a special procedure of bringing women to responsibility, which does not contribute to the promotion of gender equality in the military. Furthermore, combined with article 62 of CCU, article 32-1 of the Code of Administrative Offences substantially limits the possibility of bringing servicewoman to responsibility. The experience of foreign countries with advanced armies shows that there should be no exceptions for women in punishment for illegal activities. In particular, in the USA, servicewomen serve their sentence in the Naval Consolidated Brig, Miramar.<sup>7</sup></p>
<b>Bylaws</b>			
9	Regulations of Military Service of Officers, Warrant Officers of the Armed Forces of Ukraine approved by the President of Ukraine Decree «On Regulations of Military Service for	<p>5. The Armed Forces of Ukraine are staffed with officers and ensigns (warrant officers):</p> <p>a. On a contractual basis:</p> <p>...</p> <p>The reserve officers who have not attained the military service age limit, including women under 30 years of age;</p> <p>...</p>	<p>Item 5 of the Regulations imposes specific age limitations on women willing to make a contract of military service for officers. For women, the age limit for conclusion of the contract is 30 years. Meanwhile, the age limit for conclusion of the contract for men coincides with the age limit of military service. The age limit of military service for women is 50 years (part 5, Article 28 Law of</p>

<sup>7</sup> Rod Powers, "Inside a Military Prison," *About Careers*, accessed June 5, 2016, <http://usmilitary.about.com/od/justice/lawlegislation/a/navprison.htm>

<p>Specific Categories of Military Servants»<sup>8</sup></p>	<p>Servicemen, and also reservists and women 19 up to 30 years of age, awarded the military rank of ensign (warrant officer) according to item 15 of these Regulations;</p> <p>...</p> <p>13.</p> <p>...</p> <p>The period of validity of the contract of female servicemen on maternity leave is prolonged until the child reaches three years of age.</p> <p>34. At appointment of servicemen to military posts and their service transfers, the following requirements are observed:</p> <p>...</p> <p>d) Female servicemen are appointed to the posts of the officer and ensigns (warrant officers) determined by the Minister of Defence of Ukraine;</p> <p>...</p>	<p>Ukraine «On Military Duty and Military Service»). Therefore, women are deprived of the right to enter into a contract of service 20 years before the expiration of the age limit of military service, while men are not subject to this limitation.</p> <p>Furthermore, this provision runs contrary to article 20 of the Law «On Military Duty and Military Service» (Enlistment for Military Service under a Contract), that does not have such restrictions.</p> <p>Item 13 guarantees extension of the contract term by the time of the woman's childcare leave till the achievement of the age of 3. In connection with the proposal to grant servicemen the right to childcare leave, it is proposed to introduce relevant amendments to this item.</p> <p>Sub-item «r» of item 34 provides that servicewomen may be appointed to a limited number of positions, specified by the Defence Ministry. Such provision substantially impairs the right of servicewomen to work, creating unequal conditions with men.</p> <p>(For more detail on restrictions for women filling military positions, see the comment to the Minister of Defence Order «On Approval of the Provisional Lists of Military Occupational and Regular Positions of Privates and Non-</p>
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<sup>8</sup> Note: this provision applies not only to AFU but also to NGU and SBS, since item 2 of the Decree provides: «Regulations of military service of officers, warrant officers of the Armed Forces of Ukraine, Regulations of Military Service of Privates (Seamen), Non-Commissioned Officers of the Armed Forces of Ukraine, Regulations of Military Service (Training) under a Contract in the Armed Forces of Ukraine of Cadets (Students) of Higher Military Educational Establishments, Military Training Divisions of Higher Educational Establishments, approved by said Decree, applies to military formations, except the Armed Forces of Ukraine, the National Guard of Ukraine, the Security Service of Ukraine, the Foreign Intelligence Service of Ukraine, the State Border Service of Ukraine, the State Service of Special Communications and Protection of Information of Ukraine and the State Guard Department of Ukraine.»

10	Regulations of Military Service of Privates (Seamen), Non-Commissioned Officers of the Armed Forces of Ukraine approved by the President of Ukraine Decree «On Regulations of Military Service for Specific Categories of Military Servants» <sup>9</sup>	<p>57. ... Upon termination of maternity leave by request of the serviceman-woman she is granted child care leave (before the child reaches three years of age).</p> <p>18. ... Female servicemen on maternity and child care leave till their child is three years old have the term of their contract prolonged for the period of their specified leave.</p> <p>... 41. ... It is forbidden to transfer female servicemen to lower-paid posts in connection with pregnancy, if they have children under the age of three, and also single mothers – if they have children under the age of 14 or a handicapped child.</p> <p>43. ... It is not allowed to order pregnant female servicemen and female servicemen having children under fourteen years of age to go on business trips without their consent.</p> <p>63. ... Upon termination of maternity leave by request of the serviceman-woman she is granted child care leave (before the child reaches three years of age).</p>	<p>Commissioned Officers for Servicewomen and Position Wage Rates for the Above-Mentioned Military Servants» in column 14 of the table)</p> <p>This provision grants women to right to childcare leave. Comments to the provision are the same as to item 13 (see above).</p> <p>Critical comments are similar to those to item 13 of the Regulations of Military Service of Officers, Warrant Officers of the Armed Forces of Ukraine (see column 9 of the table).</p> <p>It is prohibited to shift women to positions with a lower pay if they have children aged under 3 years or if they on their own bring up children aged under 14 years or disabled children. Meanwhile, men (even single) do not enjoy such guarantee.</p> <p>Women who have children aged under 14 years cannot be sent TDY without their consent. Men (even single) do not enjoy such guarantee.</p> <p>Critical comments similar to those to item 13 of the Regulations of Military Service of Officers, Warrant Officers of the Armed Forces of Ukraine (see column 9 of the table).</p>
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<sup>9</sup> Note: this provision applies not only to AFU but also to NGU and SBS (see footnote 4)

	<p>... 64. To temporarily fill the posts occupied by female servicemen for the period of maternity leave or leave for care of children under the age of three, the commanders of military units can temporarily employ employees having the relevant specialisations, concluding a labour contract for this period.</p> <p>81.</p> <p>... Privates, sergeants and sergeants-major in case of announcement of mobilization continue to do military service, except for female servicemen, who have children under the age of 16 if they have not expressed a desire to continue service.</p> <p>... 91. The discharge of pregnant women and women having children under three years of age, single mothers with children under the age of fourteen or a handicapped child is not allowed, except for cases of failure by them to meet the conditions of the contract. If a unit is completely disbanded or in case of reorganisation, such female servicemen are given posts in their or, upon the decision of the senior commander other military units.</p> <p>The female servicemen on child care leave, whose posts are subject to reduction due to organisational activities and there is no opportunity to transfer such women to vacant posts, are kept out of the staff of a unit. Upon termination of child care leave the commander of military unit dismisses them from military service according to the subitem "d" of item 85 of these Regulations.</p>	<p>This provision is consistent with article 26 of the Law of Ukraine «On Military Duty and Military Service» (although the Law gives the right to dismissal only to women who have children aged under 18, not 16 years). Respectively, the comments to both provisions are similar.</p> <p>Item 91 gives women who are on childcare leave some rights to retain their positions. In connection with the proposal to grant men the right to childcare leave, relevant amendments should be introduced to this provision.</p>
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<p>11</p> <p>Regulations of Military Service (Training) under a Contract in the Armed Forces of Ukraine of Cadets (Students) of Higher Military Educational Establishments, Military Training Divisions of Higher Educational Establishments approved by the President of Ukraine Decree «On Regulations of Military Service for Specific Categories of Military Servants»<sup>10</sup></p>	<p>3. ... Service-women are admitted to higher military educational establishments and units on the relevant specialisations of training according to the list of posts of the officer personnel women can be appointed to, which are approved by orders of the Minister of Defence of Ukraine.</p>	<p>This provision is consistent with sub-item «r», item 34 of the Regulations of Military Service of Officers, Warrant Officers of the Armed Forces of Ukraine, reviewed above. This provision not only provides that women may occupy a limited number of positions but also provides that they may be trained only in the relevant specialties, which substantially restricts the right of women to military education and career.</p> <p>(For more detail on restrictions on women filling military positions see comments to the Minister of Defence Order «On Approval of the Provisional Lists of Military Occupational and Regular Positions of Privates and Non-Commissioned Officers for Servicewomen and Position Wage Rates for the Above-Mentioned Military Servants» in column 14 of the table)</p>
	<p>13. ... Female cadets (students), as a rule, do not perform daily orders, except for the cases determined by Military Regulations of the Armed Forces of Ukraine.</p>	<p>Item 13 provides that women in military educational establishments, as a rule, are not assigned for duty. This provision is consistent with item 269 of the Barracks Regulations of the Armed Forces of Ukraine, reviewed above. In connection with the proposal to allow assignment of women on duty in the army, it is proposed to allow women to go on day duty also in military educational establishments.</p>
	<p>69. ... For female cadets irrespective of curriculum individual hostels (sleeping premises) are equipped.</p>	<p>Female cadets are to be accommodated in separate hostels or dormitories. This norm meets gender requirements.</p>

<sup>10</sup> Note: this provision applies not only to AFU but also to NGU and SBS (see footnote 4)

12	Regulations of Military Service of Ukrainian Citizens in the Armed Forces of Ukraine approved by the President of Ukraine Decree «On Regulations of Military Service of Ukrainian Citizens in the Armed Forces of Ukraine» <sup>11</sup>	<p>14. Women may be enlisted under a contract in presence of vacant military positions that may be filled by servicewomen.</p> <p>The list of military positions that may be filled by servicewomen, with the exception of military positions that may be filled by senior officers, is approved by the Ministry of Defence of Ukraine.</p> <p>123.</p> <p>...</p> <p>Servicewomen may be deployed abroad with military units in presence of vacant positions that may be filled by servicewomen.</p> <p>162.</p> <p>...</p> <p>Women may undergo training for military service in the positions of non-commissioned officers, officers in specialties, the list of which is determined by the Ministry of Defence of Ukraine.</p> <p>50. The initial military rank of junior lieutenant is conferred to:</p> <p>...</p> <p>3) conscripts who served for not less than 6 months, privates, non-commissioned officers serving under a contract, and persons liable to military duty who have not reached the age limit of military service in officer positions, women in the age of up to 40 years who have higher education with the educational and qualification level not below bachelor, meeting the profile of service activities, and</p>	<p>As was noted above, this norm is not effectively implemented (see column 2 of the table).</p> <p>As was noted above, women may occupy a limited list of positions approved by the Ministry of Defence of Ukraine. This provision limits the right of women to military service.</p> <p>(For more detail on restriction on women filling military positions see comments to the Minister of Defence Order «On Approval of the Provisional Lists of Military Occupational and Regular Positions of Privates and Non-Commissioned Officers for Servicewomen and Position Wage Rates for the Above-Mentioned Military Servants» in column 14 of the table)</p>
			<p>The initial military rank may be conferred to a woman in the age of up to 40 years, and to a man – till the age limit of military service in officer positions. Meanwhile, the age limit of military service for women is 50 years.</p>

<sup>11</sup> Note: this provision applies to AFU and NGU, since Article 3 of the Decree provides: «To extend the Regulations of Military Service of Ukrainian Citizens in the Armed Forces of Ukraine approved by this Decree and of Article 2 of this Decree to military servants of the National Guard of Ukraine.»

	<p>certified for conferment of the initial military rank of officers, given the need for officers in that specialty;</p> <p>...</p> <p>82. Military servants are appointed to positions:</p> <p>...</p> <p>2) equal positions:</p> <p>... pregnant servicewomen on their request and on medical indication - to positions with a smaller scope of work, as well as servicewomen who have children aged under 3 years, on their request, if they cannot discharge their duties in the currently occupied positions;</p> <p>...</p> <p>3) lower positions:</p> <p>... pregnant servicewomen on their request and on medical indication - to positions with a smaller scope of work, as well as servicewomen who have children aged under 3 years, on their request, if they cannot discharge their duties in the currently occupied positions and in absence of equal positions;</p> <p>145.</p> <p>...</p> <p>Pregnant servicewomen and servicewomen who have children aged under 14 years cannot be sent TDY without their consent.</p> <p>166.</p> <p>...</p> <p>Female cadets, as a rule, are not assigned for day duty, except cases provided by the manuals of the Armed Forces of Ukraine.</p>	<p>Item 82 provides guarantees of retention of position to servicewomen who have children aged under 3 years. Men who have children aged under 3 years do not enjoy such guarantees.</p> <p>...</p> <p>Servicewomen who have children aged under 14 years cannot be sent TDY without their consent. Meanwhile, the consent of men who have children aged under 14 years to go TDY is not required.</p> <p>...</p> <p>In connection with the proposal to allow assignment of women on duty in the army, it is proposed to allow women to go on day duty also in military educational establishments.</p>
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	<p>167. ... For female cadets, irrespective of the year of study, separate hostels (dormitories) are fitted out.</p>	<p>Female cadets are to be accommodated in separate hostels or dormitories. This norm meets gender requirements.  As was noted above, this norm is not effectively implemented (see column 2 of the table).</p>
<p><b>II. Regulatory-legal acts regimenting military service in the Armed Forces of Ukraine</b></p>		
<p><b>Laws of Ukraine</b></p>		
<p>13 On the Armed Forces of Ukraine</p>	<p><b>Article 10.</b> The Authority of the Ministry of Defence in Armed Forces Management  The Ministry of Defence of Ukraine: Carries out military-political and administrative management of the Armed Forces; Implements State policy in the Armed Forces, develops the principles of development, determines the directions of development for the Armed Forces and their training in peace and wartime; Provides overall support for the Armed Forces, ensures their operation, combat readiness and mobilisation preparedness, preparation for their fulfilment of assigned tasks and their deployment, their manning and training, weapons provisions, maintenance and modernisation of defence equipment, material, financial and other resources and property in accordance with their needs defined by the General Staff of the Armed Forces and within the funds allocated by the State Budget, exercises control over the efficient use of resources and funding, organises the execution of works and providing of services in the interests of the Armed Forces;</p>	<p>The MOD has no powers directly dealing with gender policy and guarantees of equality in the Armed Forces of Ukraine.  This situation evidently runs contrary to the international practice. For instance, the US legislation expressly rests the functions of introduction of principles of gender equality in the military with the Secretary of Defense. In particular, the Hate Crimes in the Military Act<sup>12</sup> obliges the Department of Defense to arrange trainings in gender sensitivity and non-discrimination. In its turn, Public Law 113–291<sup>13</sup> obliges the Department of Defense to work out gender-neutral standards of appointment to military positions.  Hence, it is proposed to expressly provide for «gender» functions of the Defence Ministry in article 10 of the Law. It is also proposed to oblige the Defence Ministry to submit to Parliament annual reports on the status of gender equality and</p>

<sup>12</sup> Pub. L. 104–201, div. A, title V, §571(a), (b), Sept. 23, 1996, 110 Stat. 2532, accessed 1 June 1, 2016, available at: <http://uscode.house.gov/statviewer.htm?volume=110&page=2532>

<sup>13</sup> Pub. L. 113–291, div. A, title V, §524(a), Dec. 19, 2014, 128 Stat. 3361, accessed 1 June 1, 2016, available at: <http://uscode.house.gov/statviewer.htm?volume=128&page=3361>

<p>discrimination in AFU, similar to reports of the US Secretary of Defence<sup>14</sup>. Furthermore, it is proposed to oblige the Defence Ministry to organise special trainings in the army to enhance gender awareness and tolerance<sup>15</sup>.</p>	<p>Carries out intelligence and information-analytical activities to ensure the fulfilment of tasks assigned to the Armed Forces;</p> <p>Interacts with the State Executive and civic organisations, exercises control over the observance of laws in the Armed Forces;</p> <p>Considers petitions and personal complaints on the issues that belong to the competence of the Ministry of Defence;</p> <p>Pursues, within the limits of its powers, international co-operation on the military-political, military-technical and other issues, as well as on civil-military relations with the relevant bodies of other states and international organisations;</p> <p>Exercises other authorities pre-determined by the law.</p>	
<p>The List names the positions of privates and non-commissioned officers that may be filled by servicewomen. Servicewomen may be appointed not to all positions available in AFU, for instance, field engineer, sniper, anti-aircraft gunner, rifleman (except a special unit for escort and guarding of servicewomen sentenced to military confinement).</p> <p>Such restrictions are inconsistent with the practice of advanced countries. For instance, in 2015 the US</p>	<p>Provisional List of Permanent Positions of Privates and Non-Commissioned Officers, with account of those that cannot be filled by servicewomen, and corresponding military ranks and position wage rates.</p>	<p><b>Bylaws</b></p> <p>14 Minister of Defence Order «On Approval of the Provisional Lists of Military Occupational and Regular Positions of Privates and Non-Commissioned Officers for Servicewomen and Position Wage Rates for the Above-Mentioned Military Servants»</p>

<sup>14</sup> See., Annual Report on Personnel Readiness Factors by Race and Gender, Pub. L. 103-337, div. A, title V, §533, Oct. 5, 1994, 108 Stat. 2760, accessed 1 June 1, 2016, available at: <http://uscdo.house.gov/statviewer.htm?volume=108&page=2760>

<sup>15</sup> Committee on Women in the NATO Forces (CWINF), Best Practice to Improve the Gender Balance, approved at the annual meeting in 18 November 2008, accessed June 5, 2016, available at [http://www.nato.int/issues/women\\_nato/2008-11-gender\\_balance.pdf](http://www.nato.int/issues/women_nato/2008-11-gender_balance.pdf)

<p>Department of Defense opened all its military positions to women<sup>16</sup>. Before that, the Congress in 1993 adopted the Gender-Neutral Occupational Performance Standards that obliged the Department of Defense to establish gender-neutral criteria of selection for military positions available to men and women alike<sup>17</sup>.</p> <p>The Parliament of Israel, in its turn, as far back as in 2000 introduced amendments to the Law of Military Service, providing that every woman enjoys the same right as a man to serve in any military position<sup>18</sup>. Although not all positions are actually available to women, 92% of positions are open for both sexes<sup>19</sup>.</p>	<p>Service women are not appointed to officer positions dealing with management of explosives, diving operations, submarine positions, command and control of brigades of surface ships and naval operation centres, as well as some positions in special forces.</p> <p>Critical comments similar to those to the Minister of Defence Order «On Approval of the Provisional Lists of Military Occupational and Regular Positions of Privates and Non-Commissioned Officers for</p>
<p>15</p> <p>Minister of Defence of Ukraine Order «On Approval of the List of Military Occupational Specialties of Officers That may be Filled by Servicewomen, the List of Military Occupational Specialties, for Which, the Initial Military Rank of Junior Lieutenant of</p>	<p>List of Military Occupational Specialties of Officers that may be Filled by Servicewomen</p>

<sup>16</sup> Eric Bradner, "U.S. Military Opens Combat Positions to Women," *CNN*, accessed June 2, 2016, <http://www.cnn.com/2015/12/03/politics/u-s-military-women-combat-positions/index.html>

<sup>17</sup> Pub. L. 103-160, div. A, title V, §543, Nov. 30, 1993, 107 Stat. 1660, accessed 3 June 2016, <http://uscode.house.gov/statviewer.htm?volume=107&page=1660>

<sup>18</sup> Judah Ari Gross, "New Combat Positions for Women in the IDF, Same Old Obstacles," *The Times of Israel*, accessed June 2, 2016, <http://www.timesofisrael.com/new-combat-positions-for-women-in-the-idf-same-old-obstacles/>.

<sup>19</sup> *Ibid.*

	the Reserve May Be Conferred» dated 20.06.2012 № 412		Servicewomen and Position Wage Rates for the Above-Mentioned Military Servants» (see above).
16	Instruction manual of organisation of military training of citizens of Ukraine under the programme of reserve officer training approved by an Order of the Ministry of Defence of Ukraine, Ministry of Education and Science of Ukraine	2. ... Women may be engaged in military training in military occupational specialties to fill military positions in line with the List approved by the Minister of Defence of Ukraine Order of 20 June 2012 № 412/restricted (as amended), registered with the Ministry of Justice of Ukraine on 16 July 2012 under № 1191/21503.	The Instruction manual provides that women may pass training of reserve officers only in a limited range of specialties. In view of the proposed removal of the gender restrictions to occupy military positions (see column 14 of the table), it is proposed to lift this restriction.
<b>III. Regulatory-legal acts regimenting military service in the National Guard of Ukraine</b>			
<b>Laws of Ukraine</b>			
17	On the National Guard of Ukraine	<b>Article 6.</b> The Minister of Internal Affairs of Ukraine 1. The Minister of Internal Affairs of Ukraine performs military/political and administrative leadership over the National Guard of Ukraine. ...	The Law does not directly rest powers dealing with guarantees of gender equality in NGU on the Ministry of Internal Affairs.  Similar to the proposals to the Law of Ukraine «On Armed Forces of Ukraine» (see column 13 of the table above), it is recommended to expressly provide for «gender» functions of the Ministry of Internal Affairs and to oblige it to submit to Parliament annual reports of the state of gender equality and discrimination.
<b>Bylaws</b>			
18	CMU Resolution «On the Procedure of Calculation of Years in Service, Award and Payment of	12. Family members of deceased persons — military servants, officers and men of bodies of internal affairs, policemen, persons mentioned in item “ж”, article 1-2 of the Law of Ukraine “On Pensions for Persons Dismissed from	This item provides that one-time pecuniary assistance is granted to the wife and each disabled family member of deceased persons — military servants, officers and men of bodies of internal

	<p>Pensions and Benefits to Officers, Warrant Officers, Extended and Contracted Military Servants, Officers and Men of Bodies of Internal Affairs and Their Family Members»</p>	<p>Military Service and Some Other Persons”, irrespective of awarded survivor pensions, get one-time pecuniary assistance: the wife — in the amount of a three-month pension of the breadwinner, and each disabled family member — in the amount of a monthly pension of the breadwinner. ...</p>	<p>affairs, policemen, persons mentioned in item “ж”, article 1-2 of the Law of Ukraine “On Pensions for Persons Dismissed from Military Service and Some Other Persons” (former militiamen who continued state service in the police).  Therefore, an able-bodied husband of a servicewoman is entirely deprived of the right to get this form of one-time pecuniary assistance.</p>
<p>19</p>	<p>Minister of Internal Affairs Order «On Approval of the Instruction Manual of the Procedure of Payment of Money Allowances and One-Time Pecuniary Assistance at Dismissal of Military Servants of the National Guard of Ukraine and Other Persons»</p>	<p>XXXIV. Specificity of calculation and payment of money allowances to servicewomen 34.3. Money allowance is not paid for the time when a servicewoman is on childcare leave. 34.4. ... On a request of a pregnant servicewoman or a servicewoman who has children aged under 14 years or a disabled child, including in ward, or takes care of a sick family member on medical indication, the commander of the military unit is obliged to organise a part-time working day or part-time working week for her. 34.6. After the expiration of a childcare leave till the achievement of the age of 3, and in exceptional cases, if a child needs home care on medical indications – not more than till the achievement of the age of 6, rehabilitation benefits are provided to servicewomen only if they go on annual basic leave.</p>	<p>Section XXXIV of the Order grants women exceptional benefits to take care of a minor child.  In view of the proposal to equate rights of women and men to childcare, it makes sense to introduce relevant amendments to that Section.</p>
<p>20</p>	<p>Instruction manual of the Requirements and Procedure of Military Servants of the National Guard of Ukraine Performing the Set of Military-Sports Exercises</p>	<p>Annex 1 to the Instruction Manual of the Requirements and Procedure of Military Servants of the National Guard of Ukraine Performing the Set of Military-Sports Exercises (Section II) ... Annex 2 to the Instruction Manual of the Requirements and Procedure of Military Servants of the National Guard of</p>	<p>The Annex sets norms of physical exercises for men and women separately. Women are totally exempted from some exercises (e.g., 3 km race and pullup).  The norms are rather obsolete, so, it is proposed to revise them on the basis of modern gender-neutral</p>

<p>standards (for instance, the standards developed by the US Research Institute of National Defense)<sup>20</sup>.</p>	<p>Ukraine Performing the Set of Military-Sports Exercises (Section II)</p>	<p>Approved by the Minister of Internal Affairs Order «On Approval of the Instruction Manual of the Requirements and Procedure of Military Servants of the National Guard of Ukraine Performing the Set of Military-Sports Exercises»</p>
<p>The Instruction manual formalises some requirements to and standards of physical fitness of servicewomen.</p> <p>This level of physical fitness cannot properly prepare women for participation in combat operations. Therefore, in view of the proposal to open «battlefield» positions for women and to introduce new standards of assessment of their physical fitness, it is recommended to revise the methods of physical training of servicewomen.</p>	<p>... For military servants of age groups six and seven (for women – age group five), the duration of the preparatory portion of the exercises is increased to 15 minutes, the final portion – 10 minutes. ... During the main portion of the exercises, servicewomen perform sets of floor exercises and rhythmic gymnastics combined with physical exercises using exercise machines. ... Exercise 14a. Complex muscle-building exercise (for women). ... 3. Physical training of servicewomen. ...</p>	<p>Instruction manual of Organisation of Physical Training in the National Guard of Ukraine approved by the Minister of Internal Affairs Order «On Approval of the Instruction Manual of Organisation of Physical Training in the National Guard of Ukraine»</p>

<sup>20</sup> Chaitra M. Hardison et al., Defining Physical Standards for Physically Demanding Jobs, RAND National Defense Research Institute, December 2015, accessed 05 June, 2016, available at: <http://www.defense.gov/Portals/1/Documents/wisr-studies/OUSDPR%20-%20Defining%20and%20Establishing%20Gender-Neutral%20Standards%20for%20Closed%20occupations-A%20Review%20of%20Methods.pdf>

<b>IV. Regulatory-legal acts regimenting military service in the State Border Service of Ukraine</b>	
<b>Laws of Ukraine</b>	
<p>22 On the State Border Service of Ukraine</p>	<p><b>Article 7.</b> The central organ of executive power on protection of the state border</p> <p>The central organ of executive power on protection of the state Border, which implements the state policy in the sphere of protection of the state border of Ukraine, manages the State Border Service of Ukraine, participates in development and implementation of the general principles of legalisation and provision of inviolability of the state border and protection of the sovereign rights of Ukraine in its exclusive (sea) economic zone.</p> <p>The central organ of executive power on protection of the state border, which implements the state policy in the sphere of protection of the state border of Ukraine, generalizes the practice of application of the legislation on the issues that belong to the competence of the State Border Service of Ukraine, develops proposals on updating the legislation and in accordance with the established procedure submits them for consideration of the President of Ukraine or the Cabinet of Ministers of Ukraine.</p> <p>...</p> <p>Similar to the proposals to the Law of Ukraine «On the Armed Forces of Ukraine» (see column 13 of the table above), it is recommended to directly provide for «gender» functions of the SBSU Administration and to oblige it to submit to Parliament annual reports of the state of gender equality and discrimination. Alternatively, those functions may be vested in the Ministry of Internal Affairs, through which, the Cabinet of Ministers directs and coordinates SBS Administration activities pursuant to Item 1 of the Regulations of Administration of the State Border Service of Ukraine.</p>
<b>Bylaws</b>	
<p>23 President of Ukraine Decree «On Regulations of Military Service of Ukrainian Citizens in the State Border Service of Ukraine»</p>	<p>61. The initial military rank of junior lieutenant is conferred to: ... 3) conscripts who served for not less than 6 months, privates, non-commissioned officers serving under a contract, and persons liable to military duty who have not reached the age limit of military service in officer positions,</p> <p>The initial military rank of junior lieutenant is conferred to women in the age of up to 40 years. Meanwhile, there is no such age restriction for men.</p>

	<p>women in the age of up to 40 years who have higher education with the educational and qualification level not below bachelor, meeting the profile of service activities, and certified for conferment of the initial military rank of officers, given the need for officers in that specialty - for an intelligence body; ...</p> <p>93. Military servants are appointed to positions:</p> <p>... 5) equal positions:</p> <p>... pregnant servicewomen on their request and on medical indication - to positions with easier conditions of military service, and servicewomen who have children aged under 3 years, on their request, if they cannot discharge their duties in the previous position;</p> <p>... 6) lower positions:</p> <p>... Pregnant servicewomen on their request and on medical indication - to positions with easier conditions of military service, and servicewomen who have children aged under 3 years, on their request, if they cannot discharge their duties in the previous position and in absence of equal positions;</p> <p>... 106. Servicewomen shall not be appointed to lower positions on motives related with pregnancy, possession of children aged under 3 years (under 6 years - on medical indications), or because they are single mothers and have children aged under 14 years or disabled children, without their consent.</p> <p>... 127. Assignment of military servants in the disposal of commanding officers entitled to make appointments to</p>	<p>These provisions grant solely to women who have children aged under 3 years the right to transfer (appointment) to another position on their request, if they cannot discharge their duties in the previous position - a guarantee of prohibition of their appointment to lower positions without their consent, other rights to retain their position.</p> <p>Men do not enjoy those rights.</p>
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24	Instruction manual of the Procedure of Payment of Money Allowances to Military Servants of the State Border Service of Ukraine approved by	<p>positions for solution of issues of further military service of such military servants is allowed in case of:</p> <p>... 9) displacement of the position occupied by a servicewoman who is on leave for pregnancy and birth, or for childcare, if such woman cannot be moved to a vacant position – till the end of the childcare leave;</p> <p>153.</p> <p>... Pregnant servicewomen and servicewomen who have children aged under 14 years or a disabled child cannot be sent TDY without their consent.</p> <p>191.</p> <p>... Female cadets are accommodated separately from male cadets.</p> <p>306. In case of mobilisation:</p> <p>1) military servants who are currently in military service shall not be dismissed from service to the reserve, except servicewomen who have children aged under 16 years (such servicewomen may continue military service only of their own will).</p> <p>...</p> <p>3.25.4.</p> <p>... The period of provided childcare leave till the achievement of the age of 3, and in exceptional cases, if a child needs home care on medical indications — not more than till the achievement of the age of 6, is included in the term of continuous calendar military service for allowance payment to servicewomen.</p>	<p>Women who have children aged under 14 years cannot be sent TDY without their consent. Men (even those who bring up a child on their own) do not enjoy such guarantee.</p> <p>Female cadets are to be accommodated in separate hostels or dormitories. This norm meets gender requirements.</p> <p>As was noted above, this norm is not effectively implemented (see column 2 of the table).</p> <p>This norm correlates with article 26 of the Law of Ukraine «On Military Duty and Military Service», so, it is subject to similar comments (see column 1 of the table).</p> <p>The period of childcare leave is taken into account for payment of allowances for the length of service to servicewomen. A special procedure is provided for payment of money allowance to women who are on childcare leave, or who got back from it in the current year.</p>
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<p>the SBS Administration Order «On Approval of the Instruction Manual of the Procedure of Payment of Money Allowances to Military Servants of the State Border Service of Ukraine»</p>	<p>... 4.7.3. Money allowance is not paid for the time when a servicewoman is on childcare leave.</p> <p>... 4.7.6. After the expiration of a childcare leave till the achievement of the age of 3, and in exceptional cases, if a child needs home care on medical indications – not more than till the achievement of the age of 6, rehabilitation benefits are provided to servicewomen only if they go on annual basic leave.</p> <p>Material benefits for solution of social and household problems are provided to servicewomen in the year, in which they began to discharge their official duties after the expiration of a childcare leave till the achievement of the age of 3, in exceptional cases, if a child needs home care on medical indications - not more than till the achievement of the age of 6.</p> <p>4.7.4.</p> <p>... On a request of a pregnant servicewoman or a servicewoman who has children aged under 14 years or a disabled child, including in ward, or takes care of a sick family member on medical indication, the head of the State Border Service body is obliged to organise a part-time working day or part-time working week for her.</p> <p>Discharge of official duties in the conditions of part-time work is granted on the basis of the servicewoman's report.</p> <p>If the duration of working time of the servicewoman needs to be changed, the decision of such changes is formalised by an order. The order of the State Border Service body sets the duration of working time for the servicewoman in hours per day without lunch break. It also specifies the beginning and end of the working hours.</p>	<p>Given the proposal to grant men the right to childcare leave, these norms should also apply to servicemen.</p>
		<p>A woman who has a child aged under 14 years or a disabled child, including in ward, or takes care of a sick family member, may shift to a part-time working day or week.</p> <p>A man in similar family situation (even if he brings up/takes care of a child or a sick family member) does not enjoy such a right.</p>

	<p>Control of the actual working hours of the servicewoman is vested in her immediate superior.</p> <p>4.7.5. During the period when the servicewoman discharges her official duties in the conditions of part-time work, she is paid her money allowance in accordance with the norms provided by the legislation, proportionally to the actual working time.</p> <p>4.10.1. ... In case of dismissal from military service because of the age, in connection with staff reduction or organisational arrangements, expiration of the contract term, in connection with immediate subordination to closely related person, regular non-performance of the contract terms and conditions by the command, as well as in connection with a contingency and unwillingness to continue military service by a servicewoman who has a child (children) under 18 years, one-time pecuniary assistance in the amount of 50% of monthly of money allowances for each full calendar year of service is paid after 10 and more years in service.</p>	<p>If a woman that has a child aged under 18 years quits of her own free will in a contingency, she is paid a money benefit in the amount of 50% of the monthly money allowance for each calendar year of service after 10 and more years in service.</p> <p>This norm correlates with article 26 of the Law of Ukraine «On Military Duty and Military Service», so, it is subject to similar comments (see column 1 of the table).</p>
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## CONCLUSIONS AND RECOMMENDATIONS

Upon the analysis of the basic regulatory-legal acts regimenting the procedures of service in the Armed Forces of Ukraine, the National Guard and the State Border Service, it may be concluded that the overwhelming majority of the problems faced by servicewomen during their professional career require legislative regimentation. In particular, there is a need of amendment of the relevant provisions of the laws and bylaws to ensure:

- 1) equal conditions for conclusion of contracts by servicewomen and servicemen (to remove the difference of 20 years between the age limits for women and men making such contracts);
- 2) equal opportunities to get the initial military rank (to equate age limits for women and men);
- 3) gender-neutral criteria of selection for positions;
- 4) the right to occupy the overwhelming majority (over 90%) of positions for servicewomen;
- 5) removal of the difference in the norms of exercise load set for servicewomen and servicemen;
- 6) equal opportunities to exercise the right to parenthood and care of children (to provide the right to quit service and the right to go on childcare leave to both women and men);
- 7) equal conditions for leaving service (to equate the age of dismissal from service and retirement for women and men);
- 8) equal opportunities for reserve service (to grant women the right to be enlisted to the ready operational reserve);
- 9) establishment of equal responsibility in case of breach of discipline and offences, irrespective of the sex;
- 10) monitoring and control of observance of the principles of gender equality in power structures (extension of powers of agency heads to monitor and report on observance of gender equality in the concerned power structures).

Regimentation of the above-mentioned aspects of military service (or service in other power structures) will provide for harmonisation of the conditions of service with the principles of gender equality. Regimentation of gender equality issues will help employ more female professionals in those agencies, provide incentives to the serving women and contribute to easing tension between military servicewomen and servicemen in their service.

However, introduction of amendments to the legislation will be a crucial but only the first step towards gender equality in power structures. Solution of this problem greatly depends on the policy pursued by the agency heads, on their own attitude to the issue and ways of building relations in a working (military) team led by those persons.

The executives' resolve to admit and solve the gender problem in power structures is also critical for proper implementation of the existing norms. For instance, the right of servicewomen and female cadets to live in separate premises provided in a number of regulatory-legal acts is effectively neglected. The reason is that the budgets of the concerned power structures do not allocate funds to overhaul and creation of infrastructure facilities meeting the norms of separate accommodation of servicewomen.

At the same time, the heads of the power structures pay too little attention to the gender issue. The analysis shows that manning schedules have no positions in charge of monitoring gender equality. In response to official requests addressed to NGU and SBSU to coordinate gender issues with the concerned commissioners, they reported absence of problems with gender equality *over the entire time of existence* of the concerned agency. Such answers witness not only the absence of officials empowered to monitor the observance of the principles of gender equality in power structures, but also the reluctance of the heads of such structures to admit the problem and to search for the ways of its solution.

In official answers to inquiries about regimentation of gender issues, representatives of power structures refer to the norms of the effective legislation, by which they are guided and limited. In particular, according to representatives of power structures, including the Ministry of Defence, it is impossible to entirely do away with the differences in the status of women and men during military service. To back their position, experts mainly refer to Ukraine's obligations arising from international agreements. For instance, in pursuance of norms of the International Maternity Protection Convention, the Law of Ukraine "On Labour Protection" and the Ministry of Public Health Order dated 29 December 1993 № 256 "On Approval of the List of Hard Works and Works in Hazardous and Dangerous Conditions, Where Employment of Women's Labour is Forbidden" were adopted.

However, provisions of the quoted legislative acts require more detailed analysis and revision, since they do not rest on international norms but almost literally reproduce regulatory acts of the Soviet times.

Other international documents that were ratified by Ukraine and are binding on its territory also deserve mention. In particular, Article 3 of the International Covenant on Civil and Political Rights provides that the States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment

of all civil and political rights. In its turn, Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms expressly bans discrimination on any ground, including that of sex. The relevant UN Convention dealing with the protection of women's rights – the United Nations Convention on the Elimination of All Forms of Discrimination against Women – provides for the positive duty of the state to take measures aimed at accelerating de facto equality between men and women in all fields, including political, social, economic and cultural (Article 3). Similar provisions are also contained in the Constitution of Ukraine – part 3, Article 24, that, among other things, obliges the state to ensure equality of women and men by providing women with opportunities equal to those of men in work and its remuneration. Unfortunately, the national legislation still prefers obsolete communist norms to democratic standards of equality.

Upon the initial survey one may come to the conclusion of the need to examine the status of women in the other 9 state power structures. It also seems expedient to identify discriminatory provisions of regulatory-legal acts in the field of the labour law that may include orders and directives of the Ministry of Social Policy and the Ministry of Public Health. Some answers to the questions of gender equality may probably be found in the judicial practice and explanations of higher courts. In the context of this survey, the practice of the European Court for Human Rights may be interesting.

However, this review already shows the necessity of the following actions:

- inclusion of gender monitoring into the powers of heads of power structures and establishment of the duty to report on gender issues to the Verkhovna Rada of Ukraine;
- engagement of women in internal policy-making and manning of the concerned power structures;
- introduction of regular questioning of military servants about gender equality;
- development of trainings, information and instructional material on gender equality for military servants;
- certification of military servants and agency officials in gender issues;
- development of instructions for regular gender expert examination of regulatory-legal acts and departmental executive documents;
- building and restoration of infrastructure facilities to back the right to separate accommodation as provided by the law;
- inclusion of women in the commissions for certification of military servants of all levels;
- drafting of the Code of Ethics for military servants.

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