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**PECULIARITIES OF CRIMINAL LIABILITY OF MILITARY PERSONNEL
IN NATO MEMBER COUNTRIES**

The article examines the peculiarities of the legal regulation of criminal liability of military personnel of NATO member countries. A comprehensive comparative legal analysis of the military-criminal legislation of the leading states of the Alliance has been carried out, and common and distinctive features of the legal mechanisms for bringing military personnel to criminal responsibility have been identified. The legal grounds of responsibility of servicemen for crimes against the order of military service and common criminal offences are considered. It studies peculiarities of the functioning of the system of military justice in NATO countries, the powers of military courts and other bodies of military justice, and the specificity of the differentiation of civil and military jurisdiction.

Particular attention is paid to the legal regulation of criminal liability of military personnel during international operations within the Alliance and beyond. The article analyzes the process of implementation of international humanitarian law into the national legislation of NATO member countries, as well as the system of punishments applied to military personnel for committing criminal offenses.

On the basis of the conducted research, promising directions for improving the national military-criminal legislation are determined, taking into account the standards and experience of NATO member countries.

Keywords: *criminal liability; military personnel; NATO; military offences; military justice; military courts; international humanitarian law; military criminal legislation.*

Statement of the problem. The issue of legal regulation concerning the criminal liability of military personnel is relevant for ensuring the proper functioning of the armed forces in any country. In the context of expanding military-political cooperation with the North Atlantic Alliance, the study of the military-criminal legislation of NATO member countries gains particular significance. The international military cooperation, joint military exercises, and participation in international peacekeeping operations necessitate the harmonization of national legal frameworks governing the liability of military personnel.

At the same time, the legal systems of various NATO member countries possess distinctive features, which are reflected in their approaches to the formation of military-criminal legislation. This gives rise to certain theoretical and practical issues related to the determination of jurisdiction, the classification of military offences, and the use of punishment against military personnel, which requires a thorough scientific analysis.

Analysis of Recent Research and Publications. The issues surrounding military-criminal legislation and the specific features of criminal liability for military personnel have been examined in the works of numerous domestic and international scholars. Substantial contributions to the development of this field have been made by V. P. Bodayevskyi [1], S. I. Dyachuk [2], M. I. Karpenko [3], and V. V. Pylypchuk [4]. Among foreign researchers, the studies of G. Corn [5], D. Fidler [6], and R. Sloane [7] are particularly noteworthy.

Certain aspects of the legal regulation of criminal liability for military personnel in NATO countries have been addressed in the works of S. M. Melnyk

[8], who examined the military-criminal legislation of the United States and the United Kingdom, and M. S. Turkot [9], who analyzed the criminal-law protection of military service in the Federal Republic of Germany.

However, despite the considerable body of scholarly research, a comprehensive comparative legal analysis of the peculiarities of criminal liability for military personnel in NATO member countries remains insufficiently developed. This underscores the need for further academic inquiry in this area.

The purpose of this article is to identify the specific features of criminal liability for military personnel in NATO member countries through a comparative legal analysis of national legislations. It aims to reveal commonalities and differences in the legal mechanisms for prosecuting service members and to formulate recommendations for improving national military-criminal legislation, taking into account the experience of NATO states.

Presentation of the Main Material. The North Atlantic Alliance encompasses states with diverse legal systems, which directly influences the regulation of criminal liability for military personnel. Broadly speaking, two principal models of military-criminal legislation can be distinguished among NATO member countries:

1. Countries that use codified military criminal laws (separate military criminal codes or military criminal sections of general criminal codes);
2. Countries in which the responsibility of military personnel is regulated by general criminal law with few specifics [10, c. 87].

The first group of countries includes the United States, the United Kingdom, Spain, Portugal, Poland, Turkey, and the Federal Republic of

Germany, all of which maintain separate military-criminal codes. In the United States, this is the Uniform Code of Military Justice (UCMJ), which establishes liability for specific military offences [11, p. 205]. In the United Kingdom, the primary legislative act in this field is the Armed Forces Act, which is periodically updated [12]. In the Federal Republic of Germany, the criminal liability of military personnel is governed by the Military Criminal Code (Wehrstrafgesetz (WStG)) [13, p. 127].

The second group of countries includes France, Italy, Belgium, Denmark, the Netherlands, and Poland, where military-criminal provisions are incorporated into general criminal codes as separate sections or chapters.

It should be noted that, regardless of the model adopted, the military-criminal legislation of NATO member countries must take into account the requirements of the North Atlantic Treaty and other international agreements in force within the Alliance, most notably, the NATO Status of Forces Agreement (SOFA) of 19 June 1951 [14].

An analysis of the military-criminal legislation of NATO member countries reveals certain common features in the definition and characteristics of military offences. In most countries, military offences are defined as unlawful acts committed by service members that encroach upon the established order of military service [15, p. 43].

Under U.S. law, military offences are divided into two main categories: purely military offences, which can be committed exclusively by service members (e.g., desertion, disobedience of orders), and military-connected civilian offences, that are general criminal offences committed by military personnel [16, p. 108].

In the United Kingdom, military offenses are defined as acts specified in the Armed Forces Act. This legislation not only criminalizes specific military offenses but also extends the application of general criminal law to military personnel,

incorporating certain distinctive provisions [17].

The German Military Criminal Code (Wehrstrafgesetz) defines military offences in a separate section, treating them as acts such as failure to obey orders, desertion, and breaches of duty related to the security of military installations, etc [18, p. 215].

A common feature of the military-criminal legislation of NATO member states is the criminalization of the following acts:

- disobedience to a commander's order;
- desertion;
- unauthorized absence from a military unit;
- violation of the rules of combat duty;
- mishandling of weapons;
- abuse of authority by a military official [19,

p. 74].

NATO member states exhibit diverse approaches to the organization of military justice and military adjudication. Three principal models can be distinguished:

1. Countries with a well-developed system of military courts, such as the United States, the United Kingdom, Poland, and Turkey.

2. Countries in which military courts operate only during wartime or under exceptional circumstances, such as Spain, Italy, and Germany.

3. Countries without military courts, where cases involving military personnel are adjudicated by general courts, including Denmark and Norway [20, p. 138].

The United States operates a multi-tiered system of military courts, which includes courts of first instance (courts-martial), military appellate courts, and the United States Court of Appeals for the Armed Forces [21, p. 57]. U.S. military courts have jurisdiction over all military offences committed by service members, both within the territory of the United States and abroad.

British military justice is administered through the Court Martial system, which adjudicates cases involving military offences. The 2006 reform

significantly restructured the military justice system, aligning it more closely with the civilian judicial model [22].

Following the Second World War, Germany abolished its system of military courts, and cases involving military personnel are now handled by general civilian courts. However, provision is made for the establishment of military courts during wartime [23, p. 92].

A distinctive feature of the military justice systems in NATO states is the existence of specialised military prosecutorial bodies or their equivalents. For instance, in the United States, the function of prosecution in military courts is carried out by Trial Counsel (military prosecutors), while in the United Kingdom, it is performed by the Service Prosecuting Authority of the Ministry of Defence [24, p. 114].

The issue of legal regulation of the criminal liability of NATO military personnel during international military operations holds particular significance. The primary document governing these matters is the Agreement on the Status of the North Atlantic Treaty Organization Forces (NATO SOFA), as well as supplementary bilateral agreements [25].

According to Article VII of the NATO SOFA, the principle of concurrent jurisdiction is established, under which:

- the receiving state has primary jurisdiction over offences committed by military personnel of other NATO member states if such offences are directed against its security, citizens, or property;
- the sending state has primary jurisdiction over offences arising out of the performance of official duties by its military personnel, as well as over offences directed against the security, citizens, or property of that state [26, p. 83].

An important aspect is the implementation of the norms of international humanitarian law into the military criminal legislation of NATO member countries. The majority of Alliance member countries have ratified the Rome Statute of the

International Criminal Court and have introduced corresponding amendments to their national legislation, providing for liability for war crimes and crimes against humanity [27, p. 205].

In the United States, which is not a party to the Rome Statute, liability for war crimes is established in the War Crimes Act and the Uniform Code of Military Justice [28].

The system of penalties applied to military personnel in NATO member countries combines general criminal sanctions and specific military punishments. Specific military penalties provided for in the legislation of various NATO countries include:

- reduction in military rank;
- suspension from the performance of official duties;
- service restrictions;
- dismissal from military service with forfeiture of military rank [29, p. 136].

The United States Uniform Code of Military Justice provides for a range of punishments for military personnel, including the death penalty (for a limited number of offenses), imprisonment, fines, discharge from service, reduction in rank, and others [30, p. 74].

In the United Kingdom, pursuant to the Armed Forces Act, both general criminal penalties (such as imprisonment and fines) and specific military punishments (such as discharge from service and reduction in rank) may be applied to military personnel [31].

The German system of penalties for military personnel includes both general sanctions provided for by the Criminal Code of the Federal Republic of Germany and specific military punishments, in particular arrest and dismissal from military service [32, p. 148].

It should be noted that in most NATO countries there is a discernible trend toward the humanization of punishments applied to military personnel, as well as a gradual abolition of such penalties as the death

penalty, except in cases of especially grave offenses committed during wartime [33, p. 97].

Conclusions and directions for future research. The conducted study allows for the following conclusions:

1. The military criminal legislation of NATO member countries is characterized by a diversity of approaches to the regulation of the criminal liability of military personnel, which is conditioned by national legal traditions and the specific features of domestic legal systems. At the same time, there is a clear trend toward the harmonization of legislation within the framework of international military cooperation.

2. Two principal models of military criminal legislation have developed among NATO member countries: countries with separate military criminal codes (e.g., the United States, the United Kingdom), and countries where military criminal provisions are incorporated into general criminal codes (e.g., Poland, France).

3. Despite existing differences, the military criminal legislation of NATO member states exhibits common features in defining the core elements of military offenses, such as disobedience of orders, desertion, and violations of the rules of military service, among others.

4. The military justice systems of NATO member countries are likewise marked by diversity: ranging from well-developed systems of military courts (e.g., the United States, the United Kingdom) to the complete integration of military justice into the general judicial system (e.g., Germany, Denmark).

5. Particular significance is attributed to the legal regulation of criminal liability of military personnel during international operations, which is based on the principle of concurrent jurisdiction in accordance with the NATO Status of Forces Agreement.

6. The system of punishments applied to military personnel in NATO member countries combines

general criminal sanctions and specific military penalties, reflecting a trend toward humanization and alignment and common standards of criminal law.

Promising directions for further research include:

- a depth analysis of the military-criminal legislation of individual NATO member countries, particularly the Alliance's new members;
- an examination of the specific features of implementing international humanitarian law norms within the military-criminal legislation of NATO countries;
- a study of the practice of applying military-criminal law during international operations involving the armed forces of NATO member countries;
- an analysis of approaches to harmonizing national military-criminal legislation in accordance with NATO standards.

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