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Research Report on the Second Investigation Level

Ukrainian Case

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Research Project „The Image of the Democratic Soldier: Tensions Between the Organisation of Armed Forces and the Principles of Democracy in European Comparison“

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1. The Training of Soldiers: Ukrainian Approach Towards Military Education

1.1. Soviet Background

It is quite understandable that being the integral part of the Soviet Union to a large extent affected the Ukrainian realm. The same was true for the system of military training. First of all the system of training the soldiers and the officers in USSR was oriented at building up the loyalty towards the Soviet state and Communist leaders. The other important feature of the Soviet system was the fact that it had almost no traditional roots since the inherited from the Russian empire educational system was claimed to be evil after the 1917 revolution, while any attempts of integrating into the educational system the elements developed at any of the Soviet republics were perceived as the threat to the Soviet identity. Finally, the important feature of the Soviet military-training system was the fact that the educational process was deeply affected by the realities of the Cold war.

The very existence of the permanent threat (NATO and the US) as well as the lack of military personnel after WW I and WW II caused the necessity to prepare the officers not only at the military but also at the civilian educational institutions. While those who graduated from the military institutes had to serve at the Soviet army, those who graduated from the civilian institutions but had attended the military trainings at the military faculties were getting the status of “reservist” and the officer’s rank.

Later on it turned to be rather the option not to serve as the conscripts for the people with the higher education. However, the method of educating and training the officers in both military and civilian institutions is still valid in Ukraine.

After gaining the independence in 1991 Ukraine inherited 34 military schools and faculties at 78 institutions of higher learning, far too many for its needs in the post-Cold war period. Besides that, such relatively rich heritage was complemented by a number of problems which still have an impact on the system of military training and education in Ukraine.

Basically, the fragment of Soviet system of military education was metropolis-dependent; the system was lacking any standards of military education as well as any state agencies responsible for its management. The contents of the military training programs also needed serious improvement. Moreover, establishment of the research institution and the development of psychological and pedagogical studies were strongly needed.

The communist era system had to be reformed and to adapt not only to the vast ideological changes that occurred within the state, but also to overhaul curriculums to educate officers to perform within the post-Cold War threat environment in multinational coalition or

alliance operations¹ (To Soviet officers it was axiomatic that the danger of war was inherent in the international system²)

At the very beginning of 1990s the education system (including military training and education) was characterized by the following features – certain level of conservatism, unification, authoritarian and technocratic style of management, isolation, lack of self motivation, etc.

In order to deal with this scope of problems on July 25 1992 the Minister of defense by his order No.133 started the process of transformation of system of officers' education and training. The order was prescribing to implement the reform of military education in the period 1992 – 1996. The creation of the Academy of Armed Forces was foreseen. On a large scale the first stages of the reforms were implemented mostly by volunteers who later chaired the Department of Military Education. However the attempts of reforming were weak on the one hand and severely opposed by the “old Soviet school” on the other hand. The main reasons for opposing the reforms were the foreseen reduction of number of military education institutions which consequently would have caused a significant number of unemployed personnel. Another argument for opposition was foreseen “western” type of education.

In this regard the president L.Kuchma has criticized the excessive turbulence in the military education system. In 1994 the MoD decided to correct the educational policy by taking into account the shortcomings of the previous period. The MoD experts formulated new standards of military education – a kind of mixture of Soviet and Western approach. Summarizing these efforts one might admit that by 1994-1995 the system of military training and education was reconstructed. However, the newly presented model was different from a Soviet one although had some distinctions in comparison to other countries' models.

By the end of 1996, after false starts and squandered resources, the number of military educational institutions was reduced. “Survivors” included the Academy of the Armed Forces of Ukraine (Kiev), Military University (Kharkiv), and Medical Academy; three joint (interdisciplinary) military colleges; and five service branch colleges. In addition, there were six lyceums (midlevel military schools) and military faculties (departments) at 48 institutions of higher learning. Research centers also were maintained in space and military meteorology, electronic warfare, air defense, air combat, naval operations, procurement, and education and socio-psychological service. In June 1996 the new Academy of the Armed Forces of Ukraine graduated its first class of 178 officers who assumed senior positions in the armed forces and ministry. At the same time 15 universities and institutes graduated 4,700 junior lieutenants in 150 military specialties.

1 See more: Marybeth Peterson Ulrich, UKRAINE'S MILITARY BETWEEN EAST AND WEST. - May, 2007. – P.12. Available at www.strategicstudiesinstitute.army.mil/pdffiles/pub778.pdf

2 See more: James Sherr, Professionalisation, Civilian Control and Democracy in Ukraine, available at <http://www.one-europe.ac.uk/pdf/w30edmunds.pdf>

If talking on the differences between purely military institutions and military faculties, it should be noted that in most cases the latter are perceived as option to skip the military duty for those who has the university diploma. In this regard, it is worth attention that at the early ninetieth the universities and institutes with the military faculty were of high popularity among the young men who certainly preferred to become the officer in reserve than to be conscripted to the bad equipped and quite often suffering from famine Ukrainian army of those years.

In 1997 the Concept of Higher Military Education was approved by the Cabinet of Ministers of Ukraine. The documents defined the strategic goals of the further reforming of the military education system, in particular – the filling of the state’s demand for qualified military specialists, the creation of the complex system of military education. Basically, the approval of the Concept was a step forward in the process of military education system transformation.

However, even modified approach towards the military education did not lead to significant changes in this sphere. The rooted in Soviet realm philosophy of anti-intellectualism was still prospering. In this regard, the length of service was much more decisive than the innovative approaches, whereas the loyalty towards the “official” position was praised higher than any initiatives. Moreover, under the harsh economic circumstances in 1997 in Ukraine raised a serious dilemma. Although the Army was thirsting for well-educated professionals, the economic motivation to serve in the army or to teach at the state owned military educational institutions was rather low. In instead the teachers and officers were giving the preference to private institutions.³

In this regard we should not omit one important detail – neither in the Soviet Union nor in Ukraine was the issue of privatization of military training institutions put on the table. In both USSR and Ukraine the military education and training was considered to be the state’s prerogative. And at a large scale it was due to the improvement of the economic environment in Ukraine rather than self motivation of military educators that the system not only survived the economic crises but also managed to achieve some evident success at the beginning of 21 century.

Nowadays the training system of military specialists, established in Ukraine, is the main part of the national education system. It consists of military education institutions of different levels: academies, universities, institutions, colleges, and military education elements of civil institutions, military colleges.(See Annex 1)

3 Леонід Поляков. КАДРОВА РЕФОРМА ЗАКЛАДАЄ ПІДВАЛИНИ РОЗВИТКУ ЗБРОЙНИХ СИЛ УКРАЇНИ (Leonid Poliakov. The personnel reform as a background for the armed forces development)// Народна армія (People’s army), 25 July 1997 available at <http://www.uceps.org/ua/show/301/> (in Ukrainian).

The gradulators of the military educational institutions of Ukraine acquire professions according to the following qualification scientific degrees: junior specialist, bachelor, specialist, and master.

Military education institutions train the officers of tactical, operative-tactical and operative-strategic levels. The training system of scientific and pedagogic staff is widely used in many military educational institutions.

The system of military education of Ukraine prepares qualified specialists for all military specialties.

1.2. Professional Training System

The professionalism and qualification of the officer corps depend on the existing military education system as well as a possibility of gaining additional knowledge (including language skills). The level of officers' skills can be enhanced by implementing of rotation basis of the service. Military education is provided in Ukraine's military educational institutions, which include two academies – the National Defence Academy of Ukraine and Military-Medical Academy of Ukraine, one military university, four military institutes and six military faculties within civilian universities. At the secondary education level there are throughout Ukraine two military schools, three faculties and 21 departments of military training, 18 departments of disaster response and military medicine as well as the Ivan Bohun Kyiv Military Lyceum. *(The latter deserves for a special emphasis since it is former Military School named after Alexander Suvorov. Quite often the institution is named Suvorov's Military School named after Ivan Bohun. Such eclectic combination not only reflects the realities of transition period but also can be perceived as the indicator of faculty's attitude towards the past. Basically, they teach the cadets to be proud with the Russian Empire's and Ukrainian heroes at the same time).*

Efforts to enhance cooperation within the network of military training institutions and improve the content of the military education system focused on:

- establishing a branch training institution of the Land Force – Lviv military institute integrated into the National Lviv Polytechnic University that in 2006 enrolled its first cadets and students (according to the “four years a student, one year a cadet” model);
- bringing military education content into conformity with state standards of higher education and the requirements of forces;
- better using the nation's scientific and research achievements in order to improve the level of training of service personnel.

A system of enhancing personnel qualifications (additional training, and retraining) was introduced, including:

- establishing in higher military educational institutions an officers course training network, in which officers must participate before their promotion.

At the same time regulations governing the operational-strategic level of education were amended, opening it up to deputy brigade commanders/lieutenant colonel (as opposed to the prior minimum rank of colonel). In this way, higher level education can now be obtained by younger officers.

The program of enhancing qualification is based on a key principle: prior to the beginning of training the future post that the individual will be taking up must be defined. This will enable him/her to learn in a more focused fashion, prepare for performing future responsibilities during training and – after training – to more quickly adapt to the new position:

- the Multi-National Staff Officers Centre at the National Defence Academy of Ukraine intensified its activities in order to train officers soon to be detached to international assignments.
- The training of Ukrainian officers for work in multinational staffs is also conducted in military educational institutions of NATO Member States. In 2006, 294 officers attended courses of the Centre, while 15 attended courses abroad (including four officers at the operational-strategic level and 11 at the operational-tactical level);
- Advanced language training is being consistently implemented. In military educational institutions there exist 31 groups of full-time intensive learning of foreign languages. In the course of the training year 815 officers obtained training, including 135 from designated military units manned by contract service personnel. 180 service personnel obtained training abroad (97 attended language courses, 83 specialized ones).⁴

Such developments to some extent are hampered by problems typical for all educational system of Ukraine which is mostly based on technocrats – only 2 or 3 rectors of the state universities have the humanitarian background.

Purely technocratic approach towards education, definitely, does not give the space for the development of innovative approaches and limits the humanitarian studies at the universities. The same is true for the military educational establishments. Basically, in accordance with

4 See more: White Book 2006. Defence Policy of Ukraine. Editors: Barry ADAMS, Oleg CHERNYSHOV, Stephen GLOVER, James GREENE, Hennadiy KOVALENKO, – pp. 45-46. Available at http://www.mil.gov.ua/files/white_book_eng2006.pdf

the Ukrainian legislative provisions and the demands of Ministry of Education 20-25% of the academic hours should be devoted to studying the humanitarian and social disciplines. However, at the military institutions 5,75% out of aforementioned 25% is devoted to physical training, named “physical culture”. Another 6,5% is devoted to studying of Ukrainian and foreign languages. In this respect 50% of time that should be spent on learning the humanitarian and social subject is devoted to linguistics and physical training.

Certainly, the situation is relatively better in the civilian educational institutions where military training is only the element of the educational courses. Definitely, it means that the social sciences as well as the humanitarian subject are learned without any limitations and are just enriched by the additional military training. However, the described situation has almost no effect at the army staff, because those who graduate from civil institutions mostly stay reservists for good. At the same time the military institutions usually are lacking the humanitarian dimension of education.

At least to some extent the existing situation is being compensated by the efforts of civil society as well as by the support of foreign states. The NGOs mostly focus on the seminars and trainings aimed at informing the military community on the European and Euroatlantic integration. Mostly, human rights are being emphasized. In this respect we can name the All-Ukrainian Committee of Soldiers’ Mothers and Ukraine-NATO Civil League. Whereas such activities are certainly of added value, they aim mostly at the conscripts target group which makes them irrelevant for our project.

The officers benefit from educational and training programs financed by the NATO members as well. In this regard, the significant support from USA should be mentioned⁵. Accordingly, the U.S. continues to work for the development of an independent, democratic, and non-nuclear Ukraine with a market-oriented economy. Along those lines, the U.S. seeks for Ukraine's military to remain under firm civilian control, undergo reform and restructuring, and to be increasingly integrated into the security institutions of the larger Euro-Atlantic community. U.S.-funded military training efforts are a crucial part of this effort. Training received under both the IMET, FMF, and other U.S. military assistance programs has contributed to that goal by continuing to augment Ukraine's ability to participate alongside NATO forces in crisis response operations and in PfP exercises and other activities.

However, the number of those able to participate in these programs is limited and therefore does not have a sufficient impact on the level of military education and training in Ukraine.

Such eclectic picture of the military education system enriched with the results of the first stage of our research gives us a clue to understanding of the ideal type of the leadership.

5 See more at: <http://www.state.gov/t/pm/rls/rpt/fmtrpt/2007/92086.htm>

2. Leadership Concept

The ability to prepare or get ready to fight, skill in actual fighting, and the will to prevail in combat against a foe, are the critical dimensions of leadership. At least such approach is applicable for the wartime period. In this regard, while studying the military leadership the scholars focus on providing expectations (predictions) of leader performance under various conditions, or selection criteria for candidates for specific leadership positions. Although leadership is not exclusively in the military domain, it is an especially critical aspect of it. The reasons this is so are obvious. Without leadership, even poor leadership, military operations would not be distinguished from the actions of a mob or crowd.

However, in accordance with our research tasks project, it is suggested to rely on the following four aspects important in defining the ideal military leader: data from the **historical record** (that is, data of "real" experiences); the **knowledge of experts** (be they military leaders, analysts or historians); **rational thought**; and **experimentation**. For research regarding military conflict it is impractical to conduct experimental wars. For a theory of military leadership, however, the situation is somewhat modified. Military leaders perform in peacetime as well as in war, and their peacetime performance can be more easily assessed and evaluated; then, it could be compared to wartime performance, and a set of performance criteria established.⁶

If we focus on the historical data we can come to the conclusion that the leadership concept is influenced by the complicated history of the state. Two-thirds of Ukraine since late 14th century had been divided between the Kingdom of Poland and Great Duchy of Lithuania, drifting from personal (dynastic) to real union. Then after several decades of Cossack self-rule and semi-independent statehood, most of Ukraine was re-divided between Muscovy and the Polish-Lithuanian Commonwealth, autonomy was destroyed and serfdom was gradually, though not completely, restored.

The partitions of Poland-Lithuania by the Habsburgs, the new Kingdom of Prussia and the Russian Empire in 1772-1795 as well as the military defeats of the Ottomans put most of Ukraine (and since 1812 also East Moldova) under the tsarist yoke. The Russian Empire and Austro-Hungarian Monarchy collapsed with World War I. Subsequent armed conflicts between successor nations had been aggravated by ideological clashes. The Communists and interventionists managed in 1918-1921 to destroy newborn national statehood in Ukraine – both republics and the Hetman monarchy (during his tenure Skoropadsky did much to give Ukrainian content to the state, including the confirmation of the Ukrainian Cossak heritage,

6 See more on military leadership theory: Charles F. Hawkins TOWARD A THEORY OF MILITARY LEADERSHIP available at <http://www.militaryconflict.org/leader.htm#Seven>

the establishment of the Academy of Sciences of Ukraine, the continuation of educational reforms and "Ukrainianization" of schools⁷ but the period of his ruling was too short).

In other words, at the beginning of the twentieth century the ideal leader's features turned to be the combination of Cossak era traditional features, while also including the elements typical for the leaders in Polish, Austrian and Russian Army.

The significant impact was also caused by the period of Soviet domination. At the first steps of building up the Red army (later on – Soviet army) the Communist Party leaders of the USSR started the construction of the ideal leader model based rather not at the military skills neither on the traditions of the Russian or any other army. The main point for the leader was to be conscious member of the Communist Party. Besides that, it should be noted that the origin of the officer was of high importance. Rooting in the families of workers or peasants was in some cases much more important for the carrier than any skills. The latter fact was true up to the WW II. However even the wartime of 1941-1945 did not change the situation decisively.

The same became true for the army at the Ukrainian territory. The army which became the integral part of the Soviet (Red) army was consisting of the former workers and peasants family members. Most of the commanders/leaders had either to be the members of the Communist Party or to express their loyalty.

The important fact was also the following. Since the Communist regime leaders attempted to construct the artificial Soviet identity different from any ethnic origin, they made attempts to contribute into such construction by mixing the different Soviet Republics' representatives in joint collectives which was true for the army as well.

But, probably, the most dramatic changes with the leader's identity were occurred by the fact that the lack of national military traditions and the attempts to create some new type of leader's model was interfered by the traditions of the Russian and Soviet prisons.

The great number of victims during WW II caused the necessity for the conscription of those who used to be imprisoned. The amnesty in 1953 also set the preconditions for the transfer of criminal world traditions into the Soviet Army, in particular – the "dedovshchyna"/ "didivshchyna".

Under such circumstances the leadership concept in the independent Ukraine (after 1991) had to be constructed rather than renovated or reformed. The purely western approach toward military leadership, if there is any, was opposed by the officers with the Soviet background who could not combat the negative perception of NATO states. On the other hand, the attempts to build up the military leadership model basing only at the traditions of

⁷ See more: Irene Jarosewich. Conference at Columbia University focuses on Skoropadsky. Available at <http://www.ukrweekly.com/Archive/1999/119922.shtml>

Cossackdom were not successful because of these traditions were almost lost during the period of subordination to Russian Empire and Soviet Union.

However, the preconditions developed under the Soviet rule were not sufficient for the creation of leadership model based on the national traditions. Moreover, as one can see from the above description, they contained certain drawbacks and shortcoming. Thus the leaders of independent Ukraine were facing the serious problem. On the one hand the Ukrainian traditions of military leadership suffered a lot during the numerous periods of foreign domination and almost vanished during the period of Soviet rule. On the other hand the leadership model developed in the USSR and oriented at the Communist values and devotion to the Soviet people was not applicable for the new independent Ukrainian state.

In this regard, first and foremost the Ukrainian authorities made an attempt to define the division line between the still Soviet army and the Army of Ukraine ready to fight for the brand new state's independence.

The formal step which was indispensable for this purpose was the adoption of the new oath. The text of the oath was adopted by the Parliament of Ukraine as early as on December 6, 1991.

The new oath text is following:

"I (name) start my military service and solemnly pledge to the people of Ukraine to be faithful and devoted to it; to do my military duty fairly and diligently, to obey the commanders' orders and the Constitution of Ukraine, as well as the laws of Ukraine; to keep state and military secrets. I swear to protect the Ukrainian state, uncompromisingly protect its freedom and independence. I swear never to betray the people of Ukraine."⁸

It is obvious that the text of the oath was developed under the risk of not accepting the Ukrainian independence by Russia. The text, actually, was developed as the indicator for those who prefer to stay in Ukraine after independence and in fact it was helpful since those who refused to take the oath left for Russia. For that time Ukrainian leader Leonid Kravchuk, the main factor in the successful realization of independence was the swift creation of a Ukrainian armed force out of the remnants of the Soviet Army based on Ukrainian territory. The leader of the 1917 Ukrainian republic, according to Kravchuk, "made two cardinal mistakes. He entered into a political alliance with Russia and he did not create a Ukrainian army."

In the fall 1991 interregnum between the coup and the establishment of the CIS, Kravchuk had no doubts that Ukraine would "activate" Soviet military forces on Ukrainian territory. On 27 December 1991, CIS Commander in Chief Yevgenny Shaposhnikov announced the

8 The Decree of the Parliament of Ukraine # 1936-XII by 06.12.1991

rejection of a unified CIS force. This admission meant that "less than two weeks after the creation of the CIS the integrated military structure maintained over seventy years of Soviet rule had begun to unravel in earnest."⁹

"The course of history cannot be changed," the Ukrainian Defense Minister, Konstantin Morozov, told the Parliament in Kiev in October 1991. "The Ukraine will have its own armed forces." 'I Serve the Ukraine'

To the applause of legislators, the Ukrainian leader, Leonid M. Kravchuk, conferred the rank of general colonel on the Defense Minister, whose post was created only this year. He responded with the words, "I serve the Ukraine," a deliberate variation on the words of the traditional military oath: "I serve the Soviet Union."¹⁰

The later adopted Ukrainian oath differs from the Soviet military oath, although there are some similarities if to compare: "I citizen of the Union of Soviet Socialist Republics, joining the ranks of the Armed Forces, take the oath and solemnly pledge to observe military and state secrets, to observe the constitution of the USSR and Soviet laws, unquestioningly to carry out the requirements of all military regulations and orders of commanders and superiors. I pledge conscientiously to study military science, to preserve in every way military and public property and to remain devoted till my last breath to my people, my Soviet homeland, and the Soviet government. I am prepared at all times, on orders from the government, to come out in defense of my homeland, the Union of Soviet Socialist Republics. I pledge to defend it courageously, skillfully, with dignity and honor, without sparing my blood and life in securing complete victory over the enemies. If I break this solemn vow, may I be severely punished by the Soviet people, universally hated, and despised by the working people."¹¹

The Russian papers at that time reported that the Ukrainian military was breaking all the relevant rules and laws by trying to handle nuclear warheads itself, putting at considerable risk not only the people of Ukraine, but also the whole of Europe. They also described how commanders of missile divisions and the missile army were forced under all sorts of pretexts to take a Ukrainian military oath, leave Russian service and enlist in the Ukrainian army. Even Ukrainian President Leonid Kravchuk took part in this.

At a Defense Ministry board meeting to which commanders of Russian missile units were invited, he demanded that the commander of the Vinnitsa missile army stand up there and

9 WILLIAM C. BODIE, Moscow's "Near Abroad". Security Policy in Post- Soviet Europe available at <http://www.ndu.edu/inss/McNair/mcnair16/m016cont.html>

10 Francis X. Clines, Legislators Back Effort to Create a Ukrainian Army // The New York Times, October 23, 1991

11 Available at: <http://www.php.isn.ethz.ch/collections/colltopic.cfm?lng=en&id=29622&navinfo=27752> in Russian

then and sign the text of the Ukrainian military oath, thereby becoming, to put it mildly, a "deserter."¹²

If to analyze more precisely the Ukrainian oath and the existing interpretations of the oath's text, like it is being done by lecturers at military colleges we can see that frequently they refer to the Cossackdom period, while saying that the first faithful and devoted to Ukraine warriors were the cossacks. However, there is also reference to those fighting fascism during WW II. The devotion is interpreted like the willingness to protect the state's liberty and independence and to do the military duty by serving the whole state but not only some interested persons or groups.

Definitely the text of the oath emphasizes the necessity to obey the orders of the commanders. However, the existing text also stresses that each military servicemen notwithstanding his/her affiliation and type of military service, is a citizen of Ukraine, therefore he/she is to perceive the Constitution and the laws of Ukraine as obligatory.

It is noteworthy to mention that the text of the military oath was adopted by the Parliament even earlier than the structure of the Ukrainian armed forces was defined. Therefore those who swore to serve the people of Ukraine and the Ukrainian state were first rather expressing the intention to serve at the Armed Forces which formally did not exist at that moment.

N.B. The interesting point is that the law has never defined the text of the oath, neither the authority competent to approve such text. Respectively the text of military oath is approved by aforementioned Decree while militia has the oath text approved by the Cabinet of Ministers, tax police and the penitentiary system servicemen text of oath is defined by special Laws.

For the sake of further definition of the formal ideal soldier's and leader's features we can refer to the Statutes of the Ukrainian armed forces. Although they focus rather on command than on leadership, one cannot deny that military leadership and command are two closely linked elements. It is difficult to consider one without considering the other. Besides that, it is clear that while lacking traditions the Statutes were among the founding stones for the definition of the commander and leader.

While focusing precisely at the image of the commander, there is a need to study two out of four Statutes of the Ukrainian Armed Forces.

The first one which is worth attention is the Statute of the Internal Service of the Ukrainian Armed Forces. The Statute came into force in 1999 when the respective law passed threw the Parliament. The Statute defines the rights and obligations of the military servicemen of Ukraine as well as the basic principles of their relations. The Statutes refer to

12 Viktor Litovkin, Anniversary Of The Nuclear Football, available at http://www.spacewar.com/reports/Anniversary_Of_The_Nuclear_Football_999.html

the Constitution and the Laws mentioned in our first report on Ukraine. However they are enriched with the statements for the narrow military audience. Apart from definitions and obligations the Statutes also contain the values oriented statements. For example in accordance with the Statute's Chapter I the soldier has to be brave, initiative, well disciplined. He must obey the orders and protect the commanders during the military operations. Besides that, the soldier has to do his best to preserve the colours of his unit.

Among the other demands, the soldiers have to obey the Statutes, to cherish the military glory of the Armed Forces of Ukraine, to respect military traditions and to keep other soldiers from disobedience or jeopardizing the basic human rights in the peacetime period.

The number of soldiers' obligation looks rather eclectic since in one and the same paragraph you can find the obligation to be polite with the commanders and to keep tidy. Anyway, the Statute gives more or less clear vision of the prescribed soldier's attitude towards the commanders as well as the commanders' perception of the ideal type of soldier.

In case the soldiers' behaviour deviates from prescribed by the Statutes, the sanctions are defined by the Disciplinary Statute of the Ukrainian Armed Forces which also came into force in 1999.

The document set the framework for the system of encouragements and punishment/penalties. The legislator presumes that the discipline is grounded on the understanding of military duties, responsibility for the protection of the Motherland and on the principles of the military oath. The high level of discipline can be achieved by the following means: military training, psychological training, keeping the military traditions, personal responsibility, etc. Well disciplined soldiers obey the Constitution, Statutes, and commanders' orders. The Statute also emphasises that the commanders' right is to produce the orders whereas the soldiers' duty is to obey them. In case of soldier's disobedience, the commander has the right to take the measures up to arresting the soldier.

Taking into account that above mentioned Statutes describe the formal model of commander-soldier relations and mostly focus on the soldiers' obligations it seems to be appropriate to enrich the analyses of these documents with the analyses of informal relations within the military community (in particular – the issue of informal leadership).

In this regard, it is worth mentioning the research of V. Shamraj in which he shares the results of his studies on the leadership and groups of influence within the military units¹³. While studying the informal relations he proved that mostly the leading position of a soldier or mostly group of soldiers is marked with the legacy of “*didivshchyna*” – the tradition of

¹³ Шамрай В. Державне управління військовими формуваннями воєнної організації: стан та тенденції розвитку в сучасній Україні (Shamraj V. State management of the military units and military organisation: the tendencies of development in modern Ukraine) available at <http://www.lib.ua-ru.net/inode/40215.html> (in Ukrainian)

abusing the younger conscripts by the elder, which was quite typical for the Soviet army. It should be noted that in this respect the “didivshchyna” is the mechanism of domination in a social group, completely different from what we defined as leadership above.

There are also few more mechanism of domination/leadership which are based on the common paces of origin, the “cult of strength”, criminal background of the leading group and to much less extent – religious aspects. However, none of these types of leadership/domination can be perceived as the ideal type of leadership rooted in leaders’ virtues.

In this regard we may come to the following conclusion: the ideal type of leadership on a large scale is based on the formal approach towards this phenomenon. Neither the legislator, nor the military authorities distinguish command and leadership and in this respect, the Ukrainian army faces the lack of leaders. There are some remarks moral aspects of the leadership in the Statutes, however they are basically declarative. Obviously such situation is caused by the extirpation of the Cossack traditions, Communist party orientation in the Soviet army (when the loyalty was much more important than the initiatives, professionalism or moral virtues) and, finally, because of the weak attempts of the Ukrainian political elites to change the situation after 1991. The military leadership must have confronted some serious issues to claim success in making reforms. However, when the armed forces were nationalized, they inherited a number of problems related to morale, discipline, readiness, and combat sustainability as well as lack of traditions different from Soviet, lack of informal leadership based on moral values and educational system impotent to improve the situation. Only recently certain improvements became obvious, though it is not enough to tell about the reformed system.

While analyzing the leadership phenomenon we can easily agree with the statement¹⁴ that there are few stages of leadership:

- 1) People follow because they have to. Influence is limited to immediate duty area. You cause high turnover and low morale.
- 2) People follow because they want to. People follow beyond state authority. Work is fun, influence spreads.
- 3) People follow because of what you do for the unit. Success is sensed. They like you, problems resolve easily, influence spreads.
- 4) People follow because you invest in them. Long range growth occurs. Pipeline is strong, staff development occurs, influence far-reaching.
- 5) People follow because of who you are. Few make it this high. Influence felt in every one, everything even when you’re not around.

14 http://www.safmls.org/2007/2007%20Presentations/Leadership_and_Ethics_-_Profession_of_Arms.pdf

In this respect the analyzed documents and sources lead us to the conclusion that despite the numerous efforts, the Ukrainian military leader mostly reached the first level only.

3. Norms of Conflict Settlement

Considering the lack of traditions and the lack of distinguishing of leadership and command; taking into account the rudiments of the Soviet approaches; noting the weak potential and technocratic origins of the military educational system while studying the norms of conflict settlement we have to focus on the formal approaches to conflict resolutions since they prevail in the Ukrainian Army.

In this regard, from the formal perspective, the conflict resolution within the Ukrainian army is based on the obedience. The soldiers and officers must obey the orders of those with the higher rank. In certain cases they can claim the order illegal (however only after fulfilling such order).

In cases the conflicts between the military servicemen or its consequences have criminal signs, the investigation and decision on the penalties is a prerogative of the court. It should be mentioned, that legislation enacted in 2001 and 2002 introduced important reforms to the court system. The amendments provided for a unified system of courts consisting of a Constitutional Court, a system of courts of general jurisdiction that includes the Supreme Court and specialized commercial (formerly arbitration) courts, and military courts. Military courts are specialized courts that hear only cases involving military personnel. The military courts originally were the military tribunals reformed in accordance to the newly established independent realm.

While assessing the activities of the military courts, it should be noted that the issue of abolishing this institute was raised more than once in Ukraine¹⁵. In opinion of the Ukrainian human rights advocates, the only fact of the military courts existence confronts Article 6 of the European Convention on Human Rights that Ukraine has signed and ratified. Such opinion is grounded on the respective decisions of the European Court of Human Rights¹⁶. In this respect there were few attempts to amend the Ukrainian legislation. However, they haven't come into force yet. Moreover, it was the Ukrainian ombudsman Nina Karpachova who opposed the idea of abolition of the system of military courts. She was referring the legislative collision – the courts of the general jurisdiction do not have the right to access the classified information.¹⁷

15 <http://www.minjust.gov.ua/0/3212> (in Ukrainian)

16 <http://www.helsinki.org.ua/index.php?id=1097563805> (in Ukrainian)

17 Ibidem.

Regrettably, in her willingness to avoid legislative collisions the ombudsperson did not take into account that the military courts usually function as the closed system. Basically, those who have to face the military court have to deal with the military prosecutor's office. Besides that there are no specialized military advocates. At the same time those civilian advocates usually have little knowledge of military legislation and military Statutes and this fact makes them incapable to defend military servicemen in the military courts properly.

The noteworthy point is also the principles of conflict resolution in cases which do not presuppose the military court trial. In this regard, sometimes the Statutes not always correspond with the Constitution of Ukraine. For example, Article 40 of the Constitution states that everybody is guaranteed the right to appeal to orally or in a written form the officials of the state agencies. However, the Statutes of the Armed Forces define that military servicemen can address only the official they are directly subordinated to and only in case he is not able to solve they problem they can go further.

Also the Article 29 of the Constitution defines that no one can be arrested without the court's decision. However, the Articles 48, 49, 50 of the Disciplinary Statute suggests such form of the punishment as putting in the guardhouse, which presupposes the conditions even worse than for those who has been arrested in accordance with the court decision. Moreover, such kind of arrest is foreseen by the Statutes, although they do not define what is breaking the discipline. Under such circumstances it is the commander who can execute the punishment without any legislative limitations and court decision. Besides that the Disciplinary Statute does not mention the minimum age at which towards the servicemen such punishment is applicable. Therefore, even cadets of the age lower than 18 can be punished for the disobedience.

Finally, the lawyers-consultants who serve at the Armed Forces' units usually serve there to represent only the unit and seldom give the consultations to the servicemen since they are not obliged to do that. The described situation has the weak protection of human rights in the army, lack of knowledge on the rights of military servicemen, absence of advocates and no access to judicial consultation. Consequently the conflicts between the commanders and military servicemen can be solved either by total obedience or by doubtful from the legal point of view system of punishments. The military courts if involved, also seldom help to solve such problems in a fair manner,

To sum it up, it was decided that the military courts as well as the institute of military prosecutor will be abolished gradually. It is expected that the new system will come into force in 2010 since the President has set the deadline of 2010 for the Army to switch to a fully contract-based system. One of the main objectives in this regard will be the selection of personnel that meet the requirements of modern service: a high degree of professionalism,

patriotism and discipline¹⁸ as well as the protection of the personnel rights and solving the conflicts in the civilian courts.

However, though this policy is appropriate, simply switching to contract-based employment will not automatically raise the professional or ethical standards of Ukraine's troops. Obviously, such reform will strive for the development of a human resource policy to encourage young, well-educated people with strong potential to join the Forces.

Moreover, the effective system needs to be developed to improve the professionalism of the nation's troops and to offer suitable conditions for both work and rest. All these developments will be also impossible without proper reform of the military education and training. And finally, the reform is not possible without clear definition of the basic values-oriented pillars of the military leadership, which will be helpful for distinguishing military leadership from other forms and also for distinguishing between nations and groups.

18 See more: Ukraine's Armed Forces: Whither Reforms? / ICPS Newsletter. #10, 19 March 2007.

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Annex 1: The List of Military Schools of the Ministry of Defense of Ukraine

National Academy of the Armed Forces of Ukraine

The officers of operative-strategic and operative-tactical training levels.

Military humanitarian institute of National Academy of the Armed Forces of Ukraine

The officers of operative-tactical level – the specialists for military pedagogy, psychology, sociology and military education system.

Military institute of staff engineer officers of National Academy of the Armed Forces of Ukraine

The officers of operative-tactical level – the specialists for organization of technical supply of Forces

Ukrainian military-medical Academy

Medical officers (the gradulators of medical institutes).

Kharkiv military university

The officers of Air Defense Forces and Air Defense Forces of the Army, the specialists of Automated Control System of Forces, reactive artillery, Forces of chemical, radiological and biologic protection, metrologists.

Kiev military institute of management and communication

The officers of signal forces and Automated control System of Forces.

Poltava military institute of signal troops

The officers of signal troops.

Zhitomir S.P. Korolov military radio electronics institute

Officers – specialists for radio electronics.

Odessa institute of the Army

The officers of mechanized and airmobile forces, the specialists of rear activity, rocket-artillery arming.

Sevastopol P. S. Nahimov naval institute

The officers of the Nave

Kharkiv I. Kojeduba institute of the Air Forces

Officers – pilots and navigators of military aircrafts and helicopters, combat aviation controlling.

Officers – engineer-aviation service and aviation rear.

Military-engineer institute of Podol State agrarian and technical academy

The officers of Engineers and civil defense.

L'viv P. Sagajdachnij military institute of National university "L'vivska politechnika"
The officers of the vehicle-transportation service, topography service, journalists, specialists for pedagogic process, physical training and sport

Military Bogdan Khmelnyzkiy artillery institute of Sumi State university
The officers of rocket forces and artillery forces.

Kharkiv Verhovna Rada of Ukraine guards institute of the armor forces of National technical university "Kharkivsky politechnichnij institut"
The officers of the armor forces.

Military institute of Kiev Taras Shevchenko national university
Military financier, topographer, psychologist, translators and interpreters.

Military institute of National technical university of Ukraine "Kievskij politechnichnij institut"
Military specialists for information protection