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## ДЕМОКРАТИЧНИЙ КОНТРОЛЬ ОБОРОННОГО СЕКТОРУ УКРАЇНИ (науково-дослідна стаття)

**Олег Пошедін**

Державна установа “Інститут всесвітньої історії  
Національної академії наук України”  
ORCID: 0000-0002-9253-5285  
*poshedino@gmail.com*

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Україна проголосила своєю метою членство в Європейському Союзі та Організації Північноатлантичного договору. Однією з передумов приєднання до обох організацій є стабільність інститутів, які гарантують, серед іншого, демократію та верховенство права. Для України здійснення ефективного демократичного контролю є ключовим питанням цивільно-військових відносин. Використано метод аналізу окремих слів, словосполучень і термінів, що визначають демократичне врядування оборонним сектором. Завдяки методу синтезу здійснено узагальнення опрацьованого матеріалу з метою формулювання висновків і рекомендацій. Результати статті також базуються на досвіді роботи автора в Міністерстві оборони України та співпраці з іноземними радниками, які надавали консультативну допомогу Міністерству оборони України. Розглядається демократичний контроль як проблема демократичного врядування в оборонному секторі. Зроблено висновок, що демократичне врядування обороною дозволяє швидко реагувати на зміну оточуючого середовища, прозоро приймати рішення, розробляти політику та втілювати політику в спосіб, який посилює демократичний контроль.

**Ключові слова:** демократичний контроль, оборонний сектор України, оборонне врядування.

### DEMOCRATIC CONTROL OF THE DEFENCE SECTOR OF UKRAINE (Research article)

**Oleh Poshedin**

The State Institution “Institute of World History  
of the National Academy of Sciences of Ukraine”  
ORCID: 0000-0002-9253-5285  
*poshedino@gmail.com*

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Ukraine has declared membership in the European Union and the North Atlantic Treaty Organization as its goal. One of the prerequisites for joining both organizations is the stability of institutions that guarantee, among other things, democracy and the rule of law. For Ukraine, exercising effective democratic control is a crucial issue of civil-military relations. The article analyzes individual words, phrases, and terms defining democratic control of the security and defence sector. Due to the method of synthesis, the elaborated material is generalized. The article's results are also based on the author's experience in the Ministry of Defence of Ukraine and cooperation with foreign advisers who provided advisory

**assistance to the Ministry of Defence of Ukraine. The article considers democratic control as a problem of democratic governance of the defence sector. It is concluded that democratic defence governance allows for responsive, transparent decision-making, policy development, and policy implementation in a manner, which reinforces democratic control.**

**Key words:** *democratic control, defence sector of Ukraine, defence governance.*

### Introduction

Ukraine has declared membership in the European Union and NATO as its goal. One of the prerequisites for joining both organizations is the stability of institutions that guarantee, among other things, democracy and the rule of law. A genuinely democratic society governed by the rule of law provides for effective democratic control of the security and defence sector. The absence of democratic control over the security and defence sector creates conditions for its politicization, violation of civil rights and freedoms, corruption, and inadequate fulfilment of the tasks assigned to its components. Democratic control of the security is one of the indicators that reflects the level of democracy in a country and its willingness to cooperate with international organizations. Effective democratic control of the security and defence sector is a central issue of civil-military relations in Ukraine.

Democratic control of the security and defence sector covers a wide range of issues. The Geneva Centre actively studied this problem for the Democratic Control of Armed Forces. The publications of Hans Born, Aidan Wills, Monica den Boer, Stuart Farson, Craig Forcese, Gabriel Geisler Mesevage, Lauren Hutton, Ian Leigh, Laurie Nathan, Kent Roach [Born & Aidan 2012] are devoted to the supervision of the activities of intelligence agencies. Parliamentary Oversight of the Security Sector was researched by Philipp Fluri, Anders B. Johnsson, Hans Born [Fluri et al., 2003]. Public Oversight of the Security Sector was the subject of studies by Eden Cole, Kerstin Eppert, Katrin Kinzelbach [Cole et al., 2008]. Ombuds institutions for the armed forces were studied by Benjamin S. Buckland and William McDermott [Benjamin & McDermott 2015]. Organizational and legal mechanisms of presidential control over the sector of security and defense of Ukraine were studied by Vychalkivska Yu. [Vychalkivska 2017]. Sitsinska M. analyzed characteristics and constraints in implementing democratic civilian control over Ukraine's security sector and defense [Sitsinska 2017]. This article focuses on the issue of democratic control of the defence sector, specifically in the Ministry of Defence of Ukraine and the Armed Forces of Ukraine.

The article proceeds in two parts. The first is theoretical and covers the approach to democratic control. The second part examines the issues of democratic civil control of the defence sector of Ukraine.

### 1. Approach to Democratic Control

Paragraph 20, Chapter VII of The Code of Conduct on Politico-Military Aspects of Security,

indicates that the participating States consider the democratic political control of military, paramilitary, and internal security forces as well as of intelligence services and the police to be an indispensable element of stability and security [OSCE 1994].

The Partnership for Peace framework document, signed by Ukraine in 1994, states that by subscribing, Ukraine will cooperate with the North Atlantic Treaty Organization in pursuing the following objectives: ensuring democratic control of defence forces [NATO 1994].

The Charter on a Distinctive Partnership between the North Atlantic Treaty Organization and Ukraine defines the strengthening of democratic and civilian control of the Armed Forces of Ukraine as one of the principles for developing NATO-Ukraine Relations. However, the Charter notes that the areas of consultation and cooperation will cover civil-military relations and democratic control of the Armed Forces of Ukraine [NATO 1997].

The NATO Membership Action Plan, under Political and Economic Issues, states that aspirant countries are expected to establish proper democratic and civilian control over their armed forces [NATO 1999].

Therefore, we can observe that the following concept combinations are used in various official documents: democratic political control, democratic civil control, and democratic control.

Currently, the phrase "democratic civilian control" is used in Ukraine. The term "democratic civilian control" first appeared at the legislative level in 2003 in the Law of Ukraine "On Democratic Civilian Control over the Military Organization and Law Enforcement Agencies of the State" [Verkhovna Rada of Ukraine 2003]. Since, in all strategic documents of Ukraine, the term "democratic civil control" has been used. Adopting the Law of Ukraine "On National Security of Ukraine" abolished the law of 2003 [Verkhovna Rada of Ukraine 2018].

The article's author does not use the phrase "civilian control," as civilian control may not always be democratic [Cotter et al., 2002: 35]. Although civilian control of the armed forces existed in the Soviet Union, it should more accurately be called civilian-party control. The civilian leadership of the Communist Party controlled the components of the security and defence sector through a system of Party committees. On the other hand, officers had to be members of the Communist Party and committed to the ideas of the Communist Party if they expected promotion.

At the same time, democratic control necessarily implies the subordination of the military to civilian political leadership. In a modern democratic society, this provision is an axiom. For Ukraine, the emphasis that control over the military must be both civilian and democratic was important in the first years after independence. Like in all post-Soviet states formed after the collapse of the Soviet Union, Ukraine was undergoing a transition from totalitarianism to democracy, and a new type of civil-military relations was just being formed. In current conditions, when Ukraine has achieved progress in democratic development, concept of the civil is superfluous when describing control over the security and defence sector. Thus, the author of the article uses the term democratic control, which is reflected in the title of the article.

To proceed with further research, necessary to determine the meaning of the word control in the article. Born [Born 2010: 36] asserts that in English, control means to rule, to instruct, or even to manage, as opposed to the stricter concept of a check. Based on their experience in the Ministry of Defence of Ukraine, the article's author concluded that in current conditions, democratic control in the defence sector should be exercised through democratic governance. Based on his experience in the Ministry of Defence of Ukraine, the author of the article concluded that in modern conditions, democratic control in the defence sector should be exercised through democratic governance. The relationship between democracy and civil-military relations needs to be reconceptualized regarding the democratic governance of the defence and security sector [Cottey et al., 2002: 32].

For Ukraine, implementing effective governance in the defence sector constitutes a critical problem of civil-military relations. Once Huntington noted "objective civilian control" within a democracy. The principles of such control are as follows: 1) a high level of military professionalism and recognition by military officers of the limits of their professional competence; 2) effective subordination of the military to civilian political leaders who make the fundamental decisions on foreign and military policy; 3) the recognition and acceptance by that leadership of an area of professional competence and autonomy for the military; 4) as a result, the minimization of military intervention in politics and of political intervention in the military, is integral to democratic governance in the defence sector [Huntington 1995: 9–10].

The Law of Ukraine "On National Security of Ukraine" [Verkhovna Rada of Ukraine 2018] notes that "democratic civil control is a set of legal, organizational, informational, personnel and other measures implemented in

accordance with the Constitution and laws of Ukraine to ensure the rule of law, legality, accountability, transparency of security and defence sector and other authorities whose activities are related to limitation of human rights and freedoms in cases determined by law, enhancement of their operation and performance of assigned functions, enhancement of national security of Ukraine". With some reservations, the definition can be seen precisely in terms of governance.

An indirect confirmation of the author's approach to the issue of democratic control as democratic governance is that the Geneva Centre for Democratic Control of Armed Forces, founded in 2000, was eventually renamed the Geneva Centre for Security Sector Governance.

## **2. The Democratic Governance in the Defence Sector of Ukraine**

*The Challenges of Governance in the Defence Sector.* In 2016, the RAND Corporation analytical center published the report "Reforming Ukraine's Security Sector." According to the report, there were gaps and overlaps in the functions performed by the Ministry of Defence of Ukraine and the General Staff of the Armed Forces of Ukraine; roles and responsibilities needed to be clarified, and coordination in the sector needed to be improved. In order to eliminate the existing problems, it was suggested to define the responsibilities and authorities of the security-sector leadership, reorganize the Ministry of Defence of Ukraine into new departments aligned with roles to avoid inefficiencies, create a Joint Operational Command to centralize responsibilities for ongoing military operations and many other recommendations [RAND 2016]. The Law of Ukraine "On National Security of Ukraine" [Verkhovna Rada of Ukraine 2018] took into account a significant part of the recommendations formulated by the RAND Corporation. A new national security system and the authority of the Ministry of Defence of Ukraine and the General Staff of the Armed Forces of Ukraine were defined. The positions of the Commander-in-Chief of the Armed Forces of Ukraine and the Chief of the General Staff of the Armed Forces of Ukraine were separated. At that time, the position was held by one person. Since 2019, civilians have been appointed to the positions of the Minister of Defence of Ukraine and his/her deputies. The post of the Commander of the Joint Forces has been introduced. At the same time, the law has yet to solve all the governance problems in the defence sector. One of the drawbacks of the Law was the introduction of double subordination of the Commander-in-Chief of the Armed Forces of Ukraine both to the President of Ukraine and to the Minister of Defence of Ukraine.

In 2020, the General Staff of the Armed Forces of Ukraine switched to a J-structure and, as Glen Grant

(2020) notes, such changes within military headquarters involve transitioning to a new work structure, new ways of working, and new, better, and faster processes. They are likely to take many years to implement.

As the cooperation of the Ministry of Defense of Ukraine with foreign advisers has shown, many of the problems that were identified in the RAND 2016 study remained relevant in 2020. It was noted that the Ministry of Defense of Ukraine and the General Staff of the Armed Forces of Ukraine are generally isolated, coordination and communication in critical functional areas and processes at the strategic level are too complex, and there needs to be more transparency in decision-making. It was proposed to develop a complete separation of powers, responsibilities and accountability between the Ministry of Defense of Ukraine and the Armed Forces of Ukraine.

*Ways of Improving the Governance in the Defence Sector.* In 2021, the Ministry of Defence of Ukraine continued to work on improving legislation in the defence sector. With the assistance of foreign advisors, a draft law was developed. The above draft was aimed at improving governance in the security and defence sector. New terminology understood in NATO member states was introduced, namely, authorities, responsibilities, and accountabilities in the areas of national security and defence, generation and use of troops (forces), defence capabilities, etc. The authorities, accountability, and responsibility of the Minister of Defence of Ukraine, the Commander-in-Chief of the Armed Forces of Ukraine, the Chief of the General Staff of the Armed Forces of Ukraine, commanders of branches, certain services (forces), and the Commander of the Joint Forces of the Armed Forces of Ukraine were outlined. The dual subordination of the Commander-in-Chief of the Armed Forces was eliminated which made him/her subordinate to, controlled by, and accountable to the Minister of Defence of Ukraine [Liga360 2022].

How the distribution of powers and responsibilities works during the war of Ukraine against Russia and how the principles of democratic control are implemented in this relation was vividly described by the Minister of Defence of Ukraine by the example of foreign military aid. Reznikov noted that the General Staff of the Armed Forces of Ukraine forms the request for weapons [Reznikov 2022]. After that, teams from the Ministry of Defence of Ukraine, defence attaches and diplomats are working with the request. The Ministry of Defence of Ukraine centrally transfers the supplied weapons and equipment to the warehouses of the Armed Forces of Ukraine. The distribution is carried out by the command of the Armed Forces of Ukraine because they are the ones who see the whole picture, form operation plans, and set priorities. In order to obtain the appropriate

weapons, commanders must address the Logistics Forces Command.

In 2021, the Ministry of Defence of Ukraine continued improving coordination with the Armed Forces of Ukraine and ensuring transparency in decision-making. A key area of this work was the decision to establish joint committees in the Ministry of Defence of Ukraine to ensure coordination and coherence in different spheres of activity.

Based on the consultations with experts from the Canadian PROTECT program, the Ministry of Defence of Ukraine has concluded that it is necessary to establish committees to manage the continuing functions of the Ministry of Defence of Ukraine. The committees will ensure the effective and efficient operation of the Ministry of Defence of Ukraine and will manage the primary functions executed by the Ministry of Defence of Ukraine. In this context, then, committees, when properly built and utilized, are the practical application of defence governance. Defence governance thus allows for responsive, transparent, and participatory decision-making, participatory policy development and participatory policy implementation to reinforce democratic control. The committees allow for the incorporation of military expertise to influence and inform the decision-making process in the various functions of the Ministry of Defence of Ukraine. After all, representatives of the Armed Forces of Ukraine must be included in all committees. The committee system allows the transition of military advice from the Armed Forces of Ukraine to the Ministry of Defence of Ukraine and policy decisions from the Ministry of Defence of Ukraine back down to the Armed Forces of Ukraine.

During the consultations, it was highlighted that committees should only be created with clear terms of reference outlining the scope of decisions to take, and the membership should be limited to those with direct accountability, responsibilities, or advisory roles. Committee members must be prepared to discuss options, risks, data, and evidence. And should be empowered and encouraged to disagree with other viewpoints when warranted to prepare the chairperson to make the best decision.

A significant pillar of good governance is transparency, which ensures that decisions are recorded along with options considered and significant issues and risks considered when making the decision. It ensures that the decision-maker can be held to account for the decisions taken and that decisions can be fully understood in context if the need arises later. Thus, committees are enablers of good governance. They ensure the decision-makers are armed with fulsome analysis, advice, data, and evidence to support decision-making.

The first step in introducing committees in the Ministry of Defence of Ukraine was the approval of the Regulation on Committees of the Ministry of Defence of Ukraine. Ensuring the exercise of the authority of the Minister of Defence of Ukraine and deputies Minister of Defence of Ukraine in the defence sphere in areas within their competence was defined as one of the main committees' tasks. Coordination of activities of the Ministry of Defence of Ukraine and the Armed Forces of Ukraine, ensuring coordination of tasks of the Ministry of Defence of Ukraine with other ministries and government agencies were defined among other key committees' tasks [Ministry of Defence of Ukraine 2021]. In early 2022, it was decided to create a Defence Policy Committee, a Defence Planning Committee, a Human Resources Management Committee, and a Resource Management Committee. At the same time, the number of committees and their focus areas had been debated until a final decision was made before the Russian invasion in February 2022.

An essential condition for improving governance in the defence sector is establishing a new governance culture. This task is both the most difficult and vital. Legislation can be changed, new regulations can be drafted, and new structures and committees can be created. However, without a clear comprehension of these changes and willingness to implement them in daily operations, there is no hope for changes in defence governance.

The understanding of democratic governance processes should have been supported by the policies developed within the implementation of the Ministry of Defence of Ukraine "On Organizing the Implementation of Selected Midterm Measures of the Defence Reform" [Ministry of Defence of Ukraine 2020]. In pursuance of the order's objectives, the National Defence University of Ukraine launched courses on defence policy, defence human resource management, defence professional military education, democratic civilian control, and others. Particular attention should be drawn to defence policy courses. Based on the experience, the author of this article confidently asserts that in 2020, the majority of civil servants in the Ministry of Defence of Ukraine needed an understanding of what a defence policy is and how it should be developed. The courses were designed to fill in these gaps. The courses were developed closely with the Norwegian Centre for Integrity in the Defence Sector.

When discussing changing the cultural environment in the Ministry of Defence of Ukraine and the Armed Forces of Ukraine, it should be noted that this process

has two components. The first consists of changes taking place from below. The cultural environment is changing through education, joint training with NATO member states, and cooperation with foreign advisors providing advisory assistance to the Ministry of Defence of Ukraine and the Armed Forces of Ukraine, and so on. The second and most important component is the willingness of the leadership of the Ministry of Defence of Ukraine and the Armed Forces of Ukraine to implement reforms and lead the way by personal example.

### Conclusions

When talking about democratic control of the defence sector currently in Ukraine, the emphasis should be on democratic defence governance. On the eve of the full-scale Russian invasion on February 24, 2022, democratic governance, which would correspond to the principles of NATO member states, was only being formed in the Ministry of Defence of Ukraine. The new structure of the Ministry of Defence, definition of authorities, responsibilities and accountability of the leadership of the Ministry of Defence of Ukraine and Armed Forces of Ukraine, and implementation of the principle of transparent decision-making were at various stages of implementation.

It is worth noting that changes in the structure of the Ministry of Defence and improvement of the decision-making process are internal issues and can be resolved quickly without waiting for changes at the legislative level. After the end of the war and after careful analysis, a new structure for the Ministry of Defence of Ukraine should be developed. Along with the new structure, the Soviet-era phrases "military policy" and "human resources policy", used in the Russian Federation and incomprehensible to experts from NATO member states, should disappear from departmental names. They should be replaced by "defence policy" and "personnel management". Changes will also take place in the Armed Forces of Ukraine. These changes must be implemented without undue haste, based on a thorough analysis and synthesis of lessons learned from combat operations against the Russian Federation. Partners from NATO member states should also be involved in discussing future changes. This fully applies to introducing the committee system for effective and transparent decision-making. The essence of a good defence governance system is a robust and collaborative relationship between the civil leadership in the Ministry of Defence of Ukraine and the military leadership of the Armed Forces of Ukraine so that they work together to

enhance defence capabilities of Ukraine. Democratic defence governance allows decision making in the sense articulated by Huntington, as well as in the sense of oversight and checking. Finally, defence governance effectively support defence leaders and key decision-makers in carrying out their duties in a way that enables strong leadership and meets the expectations of the public. An essential condition for improving governance in the defence sector is the establishment of a new governance culture. The formation of a new management culture will depend on many factors, which should become the subject of further research by Ukrainian scientists. However, it is safe to say that much will largely be determined by the political will of the leadership of the Ministry of Defence of Ukraine and the Armed Forces of Ukraine and their awareness of the need to change. Through their leadership qualities, it is they who can and should change the culture of their subordinates. Otherwise, even such a powerful defence governance tool as the committee system will remain only a good project on paper, as was the case many times. Furthermore, the failure of efforts to improve defence governance will be justified, as always, because not all Western approaches work in Ukraine because of Ukrainian national characteristics.

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