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PROBLEMS OF THE PROTECTION OF THE RIGHT TO LIFE IN THE ARMED FORCES

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Abstract. The article examines problems considering to the protection of the right to life within the armed forces in the context of the case-law of the European Court of Human Rights, international standards, domestic legal regulations, and mechanisms of civilian oversight. It is substantiated that the protection of the right to life of servicemen is not limited solely to the State's obligation to conduct an an investigation meeting the requirements of effectiveness into cases of death, but also includes the prevention of real and foreseeable risks to life, the обеспечение of a safe service environment, and the establishment of effective measures aimed at eliminating psychological coercion, non-statutory relations, and humiliating treatment.

Particular attention is devoted to the role of non-governmental organizations, especially the "Peace Dialogue" NGO, as an important factor in identifying violations of fundamental rights within the armed forces, ensuring public oversight, and promoting legislative reforms. The article also analyzes the regulations contained in Articles 522 and 523 of the Criminal Code of the Republic of Armenia, highlighting issues related to psychological violence, systemic pressure, command inactivity, and the establishment of causation.

It is concluded that the effective protection of the right to life within the armed forces is possible only through the complementary application of criminal law, preventive institutional measures, psychological support, and independent oversight mechanisms.

Keywords - *Right to life, armed forces, non-statutory relations, effective investigation, non-governmental organization, civilian oversight, command responsibility, criminal law protection.*

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Introduction

The right to life constitutes one of the fundamental and inalienable human rights, the protection of which represents a primary obligation of a democratic state governed by the rule of law. The necessity of safeguarding this right becomes particularly pronounced within the armed forces, where individuals are placed under the direct control of the State within a system characterized by strict hierarchical relations and military discipline. The nature of military service presupposes that the State assumes an enhanced obligation to protect the life, health, dignity, and psychological integrity of servicemen.

The European Court of Human Rights has consistently developed a legal approach according to which Article 2 of the Convention imposes upon the State not only a negative obligation to refrain from the unlawful deprivation of life, but also positive obligations:

- to prevent known and real risks to life,
- to establish appropriate legal and institutional mechanisms,
- to ensure an genuinely effective investigative process in every case of suspicious death.

Within this context, the jurisprudence of the European Court of Human Rights is of particular significance, as the Court, through the progressive development of its case-law, has established the principal criteria relating both to the substantive and procedural dimensions of violations of Article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter, "the Convention").

The relevance of the present article is also conditioned by the examination of domestic practice, particularly the persistence of criminality and non-statutory relations within the armed forces, which demonstrates that the issue is not merely individual or disciplinary in nature, but rather constitutes a fundamental problem of criminal policy and institutional organization.

At the same time, the annual reports of the Human Rights Defender, as well as the reports of civil society organizations, indicate that significant challenges and pressing issues continue to persist in the sphere of the protection of the right to life, thereby requiring both preventive institutional measures on the part of the State and, with regard to incidents and crimes that have already occurred, a more comprehensive approach and the enhancement of existing mechanisms.

The research was conducted through the application of both general and special scientific methods of cognition, including methods of analysis and comparison, systemic-structural, comparative legal, formal legal, precedential, and documentary

analysis. Through these methods, the study examined international and domestic standards concerning the protection of the right to life in the armed forces, the case-law of the European Court of Human Rights, mechanisms of civilian oversight, as well as issues relating to the effectiveness of the relevant provisions of the Criminal Code of the Republic of Armenia.

I. Criminal Law Guarantees of the Protection of the Right to Life in the Armed Forces within the Context of the Case-Law of the European Court of Human Rights

The European Court of Human Rights examines violations of the right to life within the armed forces from both procedural and substantive perspectives, without limiting the State's affirmative duties arising under Article 2 of the Convention solely to the requirement of conducting an effective investigation after a death has occurred.

According to the case-law developed by the European Court, State responsibility may arise not only in situations where an investigation fails to satisfy the requirements of independence, comprehensiveness, and effectiveness, but also where State authorities have failed to establish adequate legal, institutional, and preventive institutional measures for the protection of the lives of servicemen.

Within this context, the substantive component includes obligations relating to the prevention of real and foreseeable risks to the lives of servicemen, the elimination of non-statutory relations, the prevention of humiliating treatment and conduct, the neutralization of conditions involving psychological coercion, as well as the effective exercise of command supervision.

At the same time, the procedural component presupposes the conduct of an independent, objective, prompt, and comprehensive investigation in every case of death within the armed forces, aimed not only at establishing the immediate causes of death, but also at revealing the influence of the service environment, hierarchical relations, possible psychological violence, and command negligence.

Further developing its already established jurisprudence in this sphere, the European Court identified the principal criteria constituting the substantive and procedural dimensions of the protection of the right to life within the armed forces.

From the substantive perspective, these criteria are as follows:

- The European Court of Human Rights has consistently recognized Article 2 of the Convention as one of the cornerstones of the Convention system. Read together with Article 3, it embodies the fundamental values upon which the human rights protection framework of the Council of Europe is built. Consequently, the

safeguards arising from Article 2 must be interpreted and implemented in a manner that ensures effective, practical, and meaningful protection of the right to life rather than merely formal compliance with the Convention[1]:

- Under Article 2 § 1 of the Convention, the State's responsibilities are not confined to abstaining from unlawful interference with the right to life. The Convention framework further requires States to create and effectively implement legislative and administrative measures capable of ensuring adequate protection of the lives of everyone subject to their jurisdiction[2].

- The Court's case-law concerning fatalities in the armed forces establishes that the legal status of a serviceman—whether serving under conscription or by contract—does not diminish the State's responsibility. Since both categories of military personnel remain under the exclusive authority of the State, the latter is required to ensure conditions that effectively protect their lives and guarantee the safety of military service[3]. The judgment in Boychenko v. Russia reinforces the Court's position that no material distinction exists between contract and conscript servicemen for the purposes of Article 2 of the Convention. Since both groups remain under the exclusive control of the State while performing military service, the corresponding positive obligations of the State apply equally to each of them[4].

- The obligation to protect life also includes the State's positive duty, in appropriate circumstances, to undertake preventive operational measures in order to protect individuals both from the criminal acts of others and, in certain circumstances, from dangers arising from themselves[5].

- According to the Court's assessment not every risk to life, in itself, gives rise to an immediate obligation on the part of the State to intervene. The issue of a violation of Article 2 of the Convention arises where the State authorities knew or ought to have known of a real and immediate risk to the life of a specific

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[1] Inter alia, the judgment of the European Court of Human Rights in ***McCann and Others v. the United Kingdom***, 27 September 1995, Application No. 18984/91, §§ 146–147, Series A No. 324.

[2] The judgment of the European Court of Human Rights in ***L.C.B. v. the United Kingdom***, 9 June 1998, § 36, *Reports of Judgments and Decisions* 1998-III.

[3] The judgment of the European Court of Human Rights in ***Beker v. Turkey,*** 24 March 2009, Application No. 27866/03, §§ 5 and 43; ***Durdu v. Turkey,*** 3 September 2013, Application No. 30677/10, §§ 6 and 62; as well as ***Yasemin Doğan v. Turkey,*** 6 September 2016, Application No. 40860/04, §§ 8, 43, and 45.

[4] The judgment of the European Court of Human Rights in ***Boychenko v. Russia,*** 12 October 2021, Application No. 8663/08, §§ 5 and 80; as well as ***Tomac v. the Republic of Moldova,*** 16 March 2021, Application No. 4936/12, § 52.

[5] The judgment of the European Court of Human Rights in ***Osman v. the United Kingdom***, 28 October 1998, § 115; ***Keenan v. the United Kingdom***, 3 April 2001, Application No. 27229/95, § 89, ECHR 2001-III; ***Kılınç and Others v. Turkey***, 7 June 2005, Application No. 40145/98, § 40; as well as ***Durdu v. Turkey***, § 62, and ***Yasemin Doğan v. Turkey***, § 43.

individual, yet failed, within the scope of their powers, to take measures which could reasonably have been expected to prevent that risk[6].

- When examining cases involving suicide, the European Court of Human Rights considers whether the competent national authorities were, or reasonably should have been, aware of an immediate and identifiable threat to an individual's life. In making this assessment, the Court evaluates factors such as the person's mental health history, previous suicide or self-harm attempts, indications of suicidal intent, and other manifestations of psychological vulnerability. The Court has consistently applied this approach not only to individuals deprived of their liberty but also to both conscript and contract servicemen, who remain under the effective control and responsibility of the State throughout their military service.[7]:

- According to the Court's case-law, the State is obliged to ensure high professional standards within the military personnel system and may incur responsibility in situations where a serviceman has been driven to suicide by his hierarchical superiors through humiliation and ill-treatment[8].

- In its jurisprudence, the European Court of Human Rights evaluates the evidence on the basis of the "beyond reasonable doubt" standard. Nevertheless, such a conclusion may be reached not only through direct evidence but also on the basis of sufficiently compelling, coherent, and consistent factual inferences. Furthermore, where an individual is under the effective authority and control of the State, including during military service, the evidential burden shifts to the national authorities, which are expected to provide a credible and satisfactory account of the circumstances surrounding the injuries sustained or the death that occurred[9].

1) Thus, the case-law of the European Court of Human Rights in the field of the protection of the right to life within the armed forces establishes the following fundamental theses:
2) the protection of the lives of servicemen constitutes for the State not merely a passive obligation, but also an active positive obligation aimed at preventing risks existing within the service environment;
3) deaths occurring within the armed forces are assessed not only in the context of the conduct of individual persons, but also in light of the entire service environment, command supervision, and non-statutory relations;

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[6] The above-mentioned judgment of the European Court of Human Rights in ***Keenan v. the United Kingdom,*** 3 April 2001, Application No. 27229/95, §§ 89 and 93; as well as ***Şahinkuşu v. Turkey,*** 21 June 2016, Application No. 38287/06, § 58.

[7] The judgment of the European Court of Human Rights in ***Fernandes de Oliveira v. Portugal*** [GC], 31 January 2019, Application No. 78103/14, § 115.

[8] Ibid.

[9] Inter alia, ***Anguelova v. Bulgaria***, Application No. 38361/97, §§ 109–111, ECHR 2002-IV.

4) the suicide or death of a serviceman may give rise to the State's substantive liability where the State authorities knew or ought to have known of a real and foreseeable risk to life, yet failed to undertake sufficient preventive institutional measures;
5) the State is obliged to establish effective legal, organizational, and administrative mechanisms aimed at ensuring the lives of servicemen and safe conditions of military service;
6) the effective protection of the right to life within the armed forces includes the prevention not only of physical violence, but also of psychological coercion, humiliation, and conduct violating human dignity;
7) the inactivity of military leadership or inadequate supervision may be regarded as a causal factor contributing to a violation of the right to life;
8) in cases involving injuries or deaths occurring during military service, the burden of proof is largely placed upon the State authorities, which are required to provide a satisfactory and convincing explanation;
9) Article 2 of the Convention also gives rise to an obligation to conduct an independent, objective, prompt, and comprehensive investigation in every case of death;
10) a genuinely effective investigative process must be directed not only at establishing the immediate causes of death, but also at identifying the service-related, psychological, and organizational factors that may have contributed to the occurrence of the particular consequence.

With regard to the procedural standards, they are as follows:

- An effective official investigation into every case of death is required under Article 2 of the Convention. The purpose of such an investigation is to ensure the effective implementation of domestic legal provisions protecting the right to life, and the same standards are equally applicable to deaths occurring during military service, including cases involving the suicide of contract servicemen[10].

- The investigation must be effective in the sense that it is capable of leading to the establishment of the facts and, where appropriate, to the identification and punishment of those responsible[11].

[10] Inter alia, the judgment of the European Court of Human Rights in ***Mustafa Tunç and Fecire Tunç v. Turkey*** [GC], 14 April 2015, Application No. 24014/05, §§ 169 and 171, as well as § 81 of ***Boychenko v. Russia.***

[11] The judgment of the European Court of Human Rights in ***Mustafa Tunç and Fecire Tunç v. Turkey*** [GC], § 172, as well as ***Nana Muradyan v. Armenia***, 5 April 2022, Application No. 69517/11, § 125.

- The obligation to conduct a genuinely effective investigative process is an obligation of means rather than of result. State authorities are required to take all reasonable measures necessary to clarify the circumstances of the case, including the questioning of witnesses, the carrying out of forensic examinations, and, where necessary, an autopsy. At the same time, the effectiveness of an investigation is assessed not by the number of investigative measures undertaken, but by the comprehensive, objective, and impartial evaluation of the evidence, while the failure to undertake the necessary measures hinders the full establishment of the facts and results in a violation of the standards of an effective investigation[12].

- The Court's case-law makes clear that an investigation cannot satisfy the requirements of Article 2 unless it is conducted by authorities who are genuinely independent from those potentially involved in the incident. This requirement extends beyond formal institutional arrangements and encompasses practical independence, which constitutes an essential precondition for an objective and impartial investigation[13].

- An investigation conducted under Article 2 must afford the victim's family a meaningful opportunity to safeguard their legitimate interests. It should also be subject to an appropriate degree of public oversight, the extent of which depends on the circumstances of the individual case. The Court has further recognized that the involvement of the victim's relatives, as well as public scrutiny, may be achieved not only during the initial investigative stage but also throughout subsequent phases of the proceedings[14].

- According to the Court's established approach, Article 2 does not impose an absolute duty on investigative authorities to carry out each procedural step proposed by the victim's family. The decisive consideration is whether the investigation, viewed as a whole, satisfies the requirements of effectiveness under the Convention[15].

- The assessment of investigative effectiveness is necessarily case-specific. Rather than applying a uniform standard in every situation, the Court examines the investigation against the factual context of the case and the practical conditions

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[12] The judgment of the European Court of Human Rights in ***Muradyan v. Armenia***, 24 November 2016, Application No. 11275/07, § 135, as well as § 126 of ***Nana Muradyan v. Armenia***.

[13] § 177 of the judgment of the European Court of Human Rights in ***Mustafa Tunç and Fecire Tunç v. Turkey*** [GC].

[14] The judgment in ***Hugh Jordan v. the United Kingdom***, § 109; as well as the judgment of the European Court of Human Rights in ***Giuliani and Gaggio v. Italy*** [GC], 24 March 2011, Application No. 23458/02, § 304, ECHR 2011, and ***McKerr v. the United Kingdom***, 4 May 2001, Application No. 28883/95, § 129, ECHR 2001-III.

[15] The judgment of the European Court of Human Rights in ***Ramsahai and Others v. the Netherlands*** [GC], 15 May 2007, Application No. 52391/99, § 348, ECHR 2007-II.

under which it was conducted, while recognizing that the level of effectiveness required may differ depending on the particular circumstances involved.[16].

Thus, the case-law of the European Court of Human Rights within the framework of the procedural aspect of the right to life establishes the following fundamental theses:

- Article 2 of the Convention gives rise to an obligation to conduct an effective official investigation into every case of death, including cases involving the suicide of servicemen during military service,
- the investigation must be independent, objective, prompt, and capable of establishing the factual circumstances of the case and identifying the persons responsible,
- State authorities are required to undertake all reasonable measures necessary for the clarification of the circumstances of the case,
- the effectiveness of an investigation is assessed not by the number of measures undertaken, but by the overall comprehensiveness of the investigation, the thorough evaluation of evidence, and its practical effectiveness,
- the investigation must ensure a sufficient degree of participation for the victim's family and an adequate level of public scrutiny,
- the standards of an effective investigation are assessed in light of the circumstances of each particular case.

Summarizing the approaches developed by the case-law of the European Court of Human Rights in the sphere of the protection of the right to life within the armed forces, it may be concluded that the general logic and principal vectors converge toward a unified approach according to which the obligations of the State arising under Article 2 of the Convention encompass both the establishment of effective substantive mechanisms for the protection of the lives of servicemen and the conduct of an effective investigation in every case of death. In this context, the Court's principal positions may be summarized as follows:

i. the protection of the right to life must be practical and effective rather than merely formal,
ii. the State is obliged to establish effective legal, administrative, and organizational mechanisms for the protection of the lives of servicemen,
iii. servicemen remain under the exclusive control of the State, as a result of which the State's the State's affirmative duties assume a more stringent character,

[16] Inter alia, the judgment of the European Court of Human Rights in ***Muradyan v. Armenia***, § 136.

iv. the State is obliged to prevent real and foreseeable risks to the lives of servicemen, including the risks of suicide, psychological coercion, and non-statutory relations,
v. command inactivity, inadequate supervision, or a degrading service environment may give rise to the State's substantive liability,
vi. in cases involving deaths during military service, the burden of proof is largely placed upon the State authorities,
vii. in every case of death, the State is obliged to ensure an independent, objective, prompt, and effective investigation,
viii. an effective investigation must be directed not only toward establishing the immediate causes of death, but also toward identifying the service-related, psychological, and organizational factors that may have contributed to the particular consequence,
ix. the effectiveness of an investigation is assessed from the perspective of its comprehensiveness, objectivity, independence, and practical effectiveness.

II. The Role and Significance of the Activities of Non-Governmental Organizations in Ensuring the Right to Life within the Armed Forces

The protection of the right to life within the armed forces cannot be viewed exclusively within the framework of criminal law or internal disciplinary mechanisms. In essence, it presupposes a multi-layered preventive system in which the obligations of the State are complemented through external oversight, public accountability, and the participation of civil society. This approach is likewise consistent with the rationale presented in the preceding sections of the present study, according to which violations of the right to life within the armed forces are often conditioned not only by individual criminal conduct, but also by systemic factors related to the service environment, command supervision, non-statutory relations, and the insufficiency of preventive institutional measures.

From the perspective of international standards, a fundamental point of departure is the principle that servicemen, notwithstanding the specific nature of military service, continue to enjoy fundamental human rights. Recommendation CM/Rec(2010)4 proceeds from the principle that any limitation imposed on the rights of military personnel should have a clear legal basis, pursue a legitimate objective, and satisfy the requirement of proportionality, while States must ensure the real and effective protection of their rights throughout the entire period of service[17].

[17] The OSCE/ODIHR and DCAF handbook *Human Rights and Fundamental Freedoms of Armed Forces Personnel*, Chapter 1, pp. 17–24; Chapter 3, pp. 65–77; Chapter 8, pp. 233–248; Chapter 12, pp. 327–336, https://search.coe.int/cm?i=09000016805cf8ef (last accessed: 20 May 2026).

Within this framework, the role of non-governmental organizations derives not from the necessity of replacing State functions, but rather from the need to complement and strengthen them. The 1998 United Nations Declaration on Human Rights Defenders recognizes the right of every individual and association, individually or in association with others, to promote and protect universally recognized human rights. The same approach is reflected in the European Union Guidelines on Human Rights Defenders, where non-governmental organizations are regarded as important actors in the protection of human rights, the identification of violations, and the promotion of public awareness[18].

In the field of the armed forces, this role is primarily manifested in four main areas:

a) prevention of violations and early identification of risks,
b) raising awareness among servicemen and their family members regarding their rights,
c) conducting independent monitoring, fact-finding, and preparation of reports,
d) promotion of legislative and institutional reforms.

The OSCE/ODIHR and DCAF handbook *Human Rights and Fundamental Freedoms of Armed Forces Personnel* examines the protection of human rights within the armed forces not only in the context of the internal command structure, but also through the prism of external oversight, parliamentary supervision, ombudsman institutions, and the participation of civil society. According to the approach adopted in the handbook, the protection of human rights within the armed forces requires transparency, effective complaint mechanisms, and opportunities for independent oversight[19].

From the perspective of historical development, models of external oversight for the protection of human rights within the armed forces emerged particularly after the Second World War as mechanisms for the democratic control of military systems. In 1952, Norway established the Parliamentary Ombudsman Institution for the Armed Forces, which is regarded as one of the first military ombudsman models in the world. In 2021, Norway adopted a new Act on the Parliamentary Ombudsman Committee for the Armed Forces, thereby strengthening the legal foundations and supervisory role of that institution[20].

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[18] *EU Guidelines on Human Rights Defenders*, paras. 3–5, 14–16, 19–20. https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet29en.pdf (last accessed: 20 May 2026).

[19] https://www.dcaf.ch/sites/default/files/publications/documents/HandbookHumanRightsArmedForces-080409.pdf (last accessed: 20 May 2026).

[20] https://forsvarsombudet.no/english/ (last accessed: 20 May 2026).

Germany's experience is likewise significant. In Germany, the Parliamentary Commissioner for the Armed Forces of the Bundestag functions as an independent mechanism for the protection of the fundamental rights of servicemen and for parliamentary oversight. DCAF materials emphasize that the essence of the German model lies in the combination of the protection of fundamental rights within the armed forces and the supervisory powers of Parliament: the Commissioner is empowered to receive complaints from servicemen, examine existing problems, and present systemic deficiencies through annual reports[21].

In the United Kingdom, the Armed Forces Service Complaints Ombudsman operates as an independent oversight mechanism, whose annual reports demonstrate that external complaint and supervision procedures are particularly important for identifying pressure, discrimination, improper treatment within the service environment, as well as delays in the examination of complaints. For example, the 2023 Annual Report recorded that 13 percent of armed forces personnel reported having experienced bullying, harassment, or discriminatory treatment during service, which indicates the systemic nature of such problems and the necessity of independent oversight.[22]:

Canada's experience likewise demonstrates that ombudsman institutions and independent civilian supervision bodies in the field of the armed forces may contribute not only to the examination of individual complaints, but also to systemic reforms. The Office of the Ombudsman for the Department of National Defence and the Canadian Armed Forces was established in 1998 with the aim of increasing the transparency of the defence system and ensuring fair treatment of servicemen. For example, the 2024–2025 Annual Report addressed a systemic review of the healthcare complaints process within the armed forces and observed that the absence of uniformly formulated procedures resulted in inconsistent and differentiated handling of complaints[23].

This comparative experience demonstrates that an effective system for the protection of the right to life within the armed forces is constructed not only through mechanisms of criminal liability, but also through the combination of

[21] DCAF, *Parliament's Ombudsman for the Armed Forces*, available at https://www.btg-bestellservice.de/pdf/80193000.pdf (last accessed: 20 May 2026).

[22] *Armed Forces Service Complaints Ombudsman, Annual Report 2023*, available at: https://www.scoaf.org.uk/sites/default/files/2024-04/11224-SCOAF-Annual%20Report%20and%20Accounts%202023-24_v6_accessible1%20%281%29.pdf (last accessed: 20 May 2026).

[23] *Office of the Ombudsman for the Department of National Defence and the Canadian Armed Forces, Annual Report 2024–2025*, pp. 18–24, available at: https://www.canada.ca/content/dam/oodndcf-odnfc/documents/reports-pdf/ar-ra-2024-25-en.pdf (last accessed: 20 May 2026).

preventive and supervisory institutions. Non-governmental organizations, independent expert bodies, ombudsman institutions, and parliamentary oversight collectively create an environment in which it becomes possible to:

- identify at an earlier stage the risks of non-statutory relations, psychological coercion, and humiliating treatment,
- raise the legal awareness of servicemen and their families,
- ensure an adequate level of public oversight in cases involving deaths or serious incidents,
- contribute to the transparency of investigations and to the confidence of victims' families,
- promote legislative and institutional reforms.

Nevertheless, the role of non-governmental organizations must be exercised within an appropriate balance. The sphere of the armed forces is connected with issues of national security, official secrecy, and the maintenance of combat readiness; therefore, the participation of civil society must be structured through clear legal regulations, limitations on access to information, the protection of personal data, and due consideration of the legitimate interests of national security. However, such limitations cannot serve as grounds for completely closing the sphere of human rights protection within the armed forces or excluding it from public oversight.

Thus, the analysis of international instruments and foreign experience makes it possible to conclude that the participation of non-governmental organizations within the system for the protection of the right to life in the armed forces possesses not merely an auxiliary, but rather a preventive and systemic significance. Such organizations contribute to the effective implementation of the State's affirmative duties by ensuring external oversight, public accountability, the early identification of violations, and the continuity of reforms.

In this context, the following directions may be regarded as перспективные for the Republic of Armenia:

- clarification of the legal procedures for independent human rights monitoring within the armed forces,
- institutionalization of cooperation between non-governmental organizations and the Office of the Human Rights Defender,
- development of safe, accessible, and reliable complaint mechanisms for servicemen and their families,
- conducting thematic studies concerning deaths and serious incidents with the participation of civil society,

- preparation of periodic independent reports concerning psychological safety within the armed forces, the prevention of non-statutory relations, and command responsibility.

Therefore, the contemporary model for guaranteeing the right to life within the armed forces must be based on the understanding that criminal law response constitutes a necessary, but insufficient, measure. Effective protection is possible only where a complementary and functioning system is established among criminal liability mechanisms, effective investigations, command supervision, ombudsman mechanisms, and the participation of non-governmental organizations.

IV. The Role of Civil Society Oversight in the Protection of the Right to Life within the Armed Forces of the Republic of Armenia and Future Trends in Legislative Developments

In the Republic of Armenia, the effectiveness of the protection of the right to life within the armed forces has, in recent years, gradually begun to be viewed not only in the context of criminal prosecution and domestic disciplinary mechanisms, but also through the prism of independent civilian supervision, the activities of non-governmental organizations, and independent human rights institutions. This approach derives both from international legal standards and from the domestic reality that violations of fundamental rights within the armed forces often possess a systemic character associated with non-statutory relations, psychological coercion, official inactivity, bullying, humiliating treatment, and insufficient mechanisms for the prevention of suicide.

The 2025 Annual Report of the Human Rights Defender of the Republic of Armenia underscores that the armed forces, despite their specific institutional nature, remain subject to independent civilian supervision. It further emphasizes that the protection of human rights and the maintenance of national security should not be regarded as competing objectives; instead, they represent mutually reinforcing principles that must advance simultaneously. The Report also highlights that an effective system for safeguarding human rights within the armed forces cannot rely exclusively on internal oversight mechanisms. Rather, it requires the meaningful engagement of independent oversight bodies together with active participation from civil society organizations in promoting accountability and strengthening the protection of fundamental rights[24].

[24] *Annual Report of the Human Rights Defender of the Republic of Armenia for 2025 on the Activities of the Human Rights Defender of the Republic of Armenia and the State of Protection of Human Rights and Freedoms*, pp. 52–53.

The Office of the Human Rights Defender is regarded, within the sphere of the protection of human rights in the armed forces, as a constitutional mechanism of external and independent civilian supervision. The report particularly emphasizes that it is of fundamental importance for servicemen to be able to apply not only to bodies operating within the military hierarchy, but also to independent institutions capable of conducting effective investigations and identifying systemic problems. At the same time, reference is also made to the Explanatory Memorandum to Recommendation CM/Rec(2010)4 of the Committee of Ministers of the Council of Europe, which states that the effective protection of human rights within the armed forces requires the existence of independent oversight mechanisms.

The report further emphasizes that the Office of the Defender carries out its activities not only through cooperation with State bodies, but also through sustained engagement with civil society organizations, including expert discussions and joint studies concerning the protection of the rights of servicemen[25].

The annual reports of the Prosecutor General's Office of the Republic of Armenia for recent years likewise demonstrate that the problems existing within the armed forces continue to possess a systemic character. In particular, during 2022, 4,570 incidents were recorded within the armed forces, of which 1,696 constituted crimes, including 1,028 military crimes. In 2023, 2,358 incidents were recorded, of which 1,555 constituted crimes, while 847 were military crimes. In 2024, 2,093 incidents were recorded, of which 1,331 constituted crimes, including 715 military crimes. According to the 2025 Annual Report, 2,248 incidents were recorded, representing a 7.4 percent increase as compared with the previous year[26].

This statistical data demonstrates that, notwithstanding certain numerical decreases, the problem continues to possess a systemic character and is not confined to isolated disciplinary violations. Under such circumstances, the participation of civil society acquires not merely an auxiliary, but also a preventive significance.

The case-law of the European Court of Human Rights concerning Armenia likewise demonstrates that violations of the right to life within the armed forces are often accompanied not only by direct violence, but also by humiliating treatment, bullying, psychological coercion, and the absence of effective mechanisms for the prevention of suicide.

A particularly important illustration of these shortcomings is provided by the judgment in Hovhannisyan and Nazaryan v. Armenia. In that case, the European

[25] Also p. 52 of the same report.

[26] The annual reports on the activities of the Prosecutor General's Office of the Republic of Armenia, available at: https://www.prosecutor.am/dynamicWebPages/report (last accessed: 20 May 2026).

Court of Human Rights found that the respondent State had neither fulfilled its positive obligation to take adequate preventive measures to safeguard the life of a contract serviceman nor complied with its procedural duty to conduct an effective investigation into the circumstances surrounding his death. The Court further emphasized that the Armenian legal and institutional framework lacked effective mechanisms capable of preventing suicides among members of the armed forces[27].

A comparable approach was adopted by the European Court of Human Rights in Varyan v. Armenia. Assessing the circumstances of the case, the Court concluded that the respondent State had not provided an adequate level of protection for the life of a conscript who had been subjected to humiliation and physical abuse. The judgment further revealed shortcomings in the preventive framework, particularly the absence of effective suicide prevention measures within the military environment[28].

In this context, particular significance attaches to the activities of the "Peace Dialogue" non-governmental organization, which in recent years has become one of the most active and systematically operating organizations in the sphere of the protection of human rights within the armed forces, particularly with regard to guaranteeing the right to life. The organization's 2023–2024 Annual Report states that its strategic priorities include strengthening respect for human rights and democratic values, developing a culture of peace, as well as deepening the involvement of and cooperation with local communities[29].

Among the important areas of activity of the "Peace Dialogue" non-governmental organization are fact-finding studies concerning violations of fundamental rights within the armed forces, support provided to the families of deceased servicemen, public awareness-raising regarding safe military service, as well as the collection and publication of information concerning non-combat deaths and violations of rights within the armed forces under the "Safe Soldiers for a Safe Armenia" initiative[30].

It is noteworthy that, through its proposals concerning the new 2023–2025 Action Plan deriving from the National Human Rights Protection Strategy (Human Rights Protection Strategy), the "Peace Dialogue" non-governmental organization

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[27] The judgment of the European Court of Human Rights in ***Hovhannisyan and Nazaryan v. Armenia***, 17 October 2023, Applications Nos. 2169/12 and 29887/14, §§ 95–103, 118–122, and 129–134.

[28] The judgment of the European Court of Human Rights in ***Varyan v. Armenia***, 17 October 2023, Application No. 48998/14, §§ 90–97, 104–109, and 114–118.

[29] *"Peace Dialogue" Non-Governmental Organization, Annual Report 2023–2024*, Yerevan, 2025.

[30] The annual reports of the "Peace Dialogue" non-governmental organization, available at: https://peacedialogue.am/category/publications/annual-reports/ (last accessed: 20 May 2026).

submitted a package consisting of 24 proposals, 10 of which were incorporated into the first draft of the Action Plan[31].

A significant portion of the submitted proposals continues to retain considerable relevance, particularly in the context of the protection of the right to life, mental health protection, and preventive oversight within the armed forces. The most important and relevant among them are:

- **the development of criteria for the public disclosure of non-combat deaths within the armed forces**, since the research substantiated that the lack of transparency regarding such incidents hinders public oversight and the identification of systemic problems,
- **the study of the causes of suicide and the introduction of preventive institutional measures**, as the research demonstrates that deaths within the armed forces are often conditioned not only by individual factors, but also by service-related and psychological factors,
- **the introduction of a mental health diagnostic system within the armed forces,** since the research emphasized the impact of psychological coercion, bullying, and humiliating treatment on the right to life of servicemen,
- **the reassessment of the effectiveness of the institution of officer-psychologists,** as the conducted study demonstrates that the existing preventive and psychological support mechanisms frequently fail to ensure sufficient effectiveness[32].

At the same time, some of the proposals that were not fully incorporated into the Action Plan continue to possess practical significance and should be considered within the framework of future reforms.

These include:

- **the introduction of a system containing clear criteria for the qualification of cases of torture and ill-treatment within the armed forces**, as well as the publication of statistical data, since the present research likewise substantiated that violations of the right to life and the prohibition of torture frequently possess a systemic and insufficiently publicized character,
- **the introduction of mechanisms of public oversight over disciplinary battalions,** since the research emphasized the necessity of external and independent oversight within closed and hierarchical service environments,

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[31] https://peacedialogue.am/2023/03/18/https-peacedialogue-am-en-2022-09-16-hrap_proposals_-accepted_arm/ (last accessed: 20 May 2026).
[32] Ibid.

- **the development of an operational response plan concerning human rights in wartime situations,** since the present research established that, under wartime conditions, the risks relating to the right to life, psychological security, and the protection of victims' families significantly increase[33].

In light of the foregoing, with regard to the regulations contained in Articles 522 and 523 of the Criminal Code of the Republic of Armenia, it is necessary to note that they possess significant importance within the context of the protection afforded by criminal law of the right to life in the armed forces, since they are aimed not only at the prevention of physical violence, but also at preventing suicides resulting from psychological coercion, humiliation, and non-statutory relations. At the same time, the combined analysis of the present research, the case-law of the European Court of Human Rights, and domestic statistical data demonstrates the existence of a number of problematic issues which may serve as a basis for further scientific and legislative examination.

In particular, it is problematic that the methods of driving a person to suicide provided for in these articles are limited to the formulations of "threats, cruel treatment, or humiliation of personal honor and dignity," whereas the present research and the case-law of the European Court emphasize that psychological pressure, bullying, social isolation, continuous humiliation, and the hostile nature of the service environment within the armed forces often manifest themselves in more complex and multi-layered forms, which may not be fully encompassed by the existing formulations. Under such circumstances, the necessity for a clearer criminal law reflection of forms of psychological violence and systemic pressure may become the subject of further study.

Another problematic issue concerns the practical application of the distinction between negligent and intentional forms of driving a person to suicide, since under conditions of military service the influence of psychological pressure, hierarchical dependence, and service subordination is often difficult to assess clearly from the perspective of the form of guilt. The present research likewise substantiates that suicides within the armed forces are generally conditioned not by a single act, but rather by a combination of prolonged service-related and psychological influences, which complicates the establishment of causation and the proof of the subjective element.

Furthermore, the articles do not contain an independent assessment of command inactivity or inadequate supervision, whereas both the present research and the

[33] Available at:` https://peacedialogue.am/2022/09/03/hrap_proposals_arm/ (last accessed: 20 May 2026).

standards developed by the European Court of Human Rights emphasize that the inactivity of military leadership, inadequate supervision, or the tolerance of a degrading service environment may constitute causal factors contributing to violations of the right to life. In this context, a clearer delineation of the scope of command responsibility may become the subject of future legislative discussions.

Conclusion

The present research demonstrates that the effectiveness of ensuring effective safeguards for the preservation of life within the armed forces is conditioned not only by the existence of criminal liability, but also by the effectiveness of preventive, organizational, and supervisory mechanisms. The combined analysis of the case-law of the European Court of Human Rights, domestic statistical data, the reports of the Human Rights Defender, and civil society studies indicates that violations of the right to life within the armed forces frequently possess a systemic character and are conditioned by deficiencies in the service environment, psychological coercion, non-statutory relations, and the insufficient effectiveness of supervisory mechanisms.

At the same time, the analysis of Articles 522 and 523 of the Criminal Code of the Republic of Armenia demonstrates that although these provisions are of significant importance for the criminal law prevention of suicides within the armed forces, a number of problematic issues nevertheless remain, including those related to the comprehensive inclusion of forms of psychological violence and systemic pressure, the distinction between negligent and intentional forms of driving a person to suicide, as well as the legal assessment of command inactivity.

The research further demonstrates that the effective protection of the right to life is possible only through the combination of criminal law, preventive, and independent supervisory mechanisms, within which non-governmental organizations, ombudsman institutions, and other forms of civilian monitoring mechanisms play an important role.

In this context, important directions for future reforms may include:

(1) the development of mechanisms for the protection of mental health and the prevention of suicide within the armed forces,

(2) the introduction of effective systems aimed at preventing non-statutory relations, bullying, and psychological coercion,

(3) the strengthening of the independence, transparency, and public oversight of investigations into deaths,

(4) the legal clarification of command supervision and preventive obligations,

(5) the development of mechanisms for civilian monitoring mechanisms and independent monitoring in the sphere of the protection of human rights within the armed forces,

(6) the improvement of the law-enforcement practice and legislative framework relating to Articles 522 and 523 of the Criminal Code of the Republic of Armenia with the aim of ensuring a more comprehensive reflection of contemporary manifestations of psychological violence and service-related pressure within the armed forces.

Conflict of Interests

The authors declare no ethical issues or conflicts of interest in this research.

Ethical Standards

The authors affirm this research did not involve human subjects.

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