

УДК 351.862.2

DOI <https://doi.org/10.24144/2307-3322.2024.85.3.22>

INTERNATIONAL LEGAL REGULATION OF THE USE OF INDIVIDUAL ARMOR PROTECTION EQUIPMENT BY CIVILIANS

Timashov V.O.,

*Doctor of Juridical Sciences, Professor,
Professor of Administrative, Financial and Information Law
of the State University of Trade and Economics
ORCID: 0000-0001-8368-8856*

Gurzhii A.V.,

*Candidate of Juridical Sciences, Docent,
Docent of the Department of Administrative,
Financial and Information Law
of the State University of Trade and Economics
ORCID: 0000-0001-5757-592X*

Shevchenko O.V.,

*Candidate of Juridical Sciences, Docent,
Docent of the Department of Administrative,
Financial and Information Law
of the State University of Trade and Economics
ORCID: 0000-0001-7833-5271*

Timashov V.O., Gurzhii A.V., Shevchenko O.V. International legal regulation of the use of individual armor protection equipment by civilians.

The article examines the provisions of international legislation on the use of individual armor protection by the civilian population, as well as the prospects of their implementation in national legal systems.

It has been established that the international legislation on the use of armor protection by civilians is an extensive system of normative legal acts that represent the fields of international humanitarian law, international public law and international human rights law. The general purpose of these normative legal acts is to form a framework for ensuring the protection of civilians in armed conflicts at the level of national legal systems.

The key provisions of the Universal Declaration of Human Rights of 1948, the Geneva Convention for the Protection of Civilian Population in Time of War of 1948, the International Covenant on Civil and Political Rights of 1966 and the Convention on the Rights of the Child of 1989 and other acts of international law defining human rights to life are characterized. and personal integrity, mechanisms for the implementation and protection of these rights, as well as the legal status of citizens in armed conflicts. It has been established that the acts of international legislation determine the guiding principles that form the basis of national laws on the use of individual armor protection by the civilian population, namely the principles of distinction, proportionality and accountability. The specified principles should serve as a guideline for national legislators when developing normative legal acts on civil protection of the population.

On the example of the Republic of Bulgaria, the foreign experience of taking into account the provisions of international legislation in the development of the legal basis for the production, possession and use of individual armor protection by the civilian population is considered.

The importance of the consistent implementation of the provisions of international legislation on the use of individual armor protection by the civilian population in the context of the integration of Ukraine into the global political and legal space and the implementation of the state's obligations in the field of human rights is emphasized.

Key words: legal regulation, protection of civilians, use of individual armor protection equipment by civilians.

Тімашов В.О., Гуржій А.В., Шевченко О.В. Міжнародно-правове регулювання використання засобів індивідуального бронезахисту цивільним населенням.

У статті розглядаються положення міжнародного законодавства з питань використання засобів індивідуального бронезахисту цивільним населенням, а також перспективи їх імплементації у національні правові системи.

Встановлено, що міжнародне законодавство з питань використання засобів бронезахисту цивільними особами являє собою розгалужену систему нормативно-правових актів, які репрезентують галузі міжнародного гуманітарного права, міжнародного публічного права та міжнародного права прав людини. Загальною метою цих нормативно-правових актів є формування рамки для забезпечення захисту цивільних осіб у збройних конфліктах на рівні національних правових систем.

Охарактеризовано ключові положення Загальної Декларації прав людини 1948 року, Женевської конвенції про захист цивільного населення під час війни 1948 року, Міжнародного пакту про громадянські та політичні права 1966 року та Конвенції про права дитини 1989 року та інших актів міжнародного законодавства, якими визначаються права людини на життя і особисту недоторканість, механізми реалізації та захисту цих прав, а також правовий статус громадян в умовах збройних конфліктів. Констатовано, що акти міжнародного законодавства визначають керівні принципи, які покладаються в основу національних законів про використання засобів індивідуального бронезахисту цивільним населенням, а саме принципи розрізнення, пропорційності та підзвітності. Зазначені принципи мають слугувати орієнтиром для національних законодавців при розробці нормативно-правових актів з питань цивільного захисту населення.

На прикладі Республіки Болгарія розглядається зарубіжний досвід урахування положень міжнародного законодавства при розробці правових засад виробництва, володіння та використання засобів індивідуального бронезахисту цивільним населенням.

Підкреслюється важливість послідовної імплементації положень міжнародного законодавства з питань використання засобів індивідуального бронезахисту цивільним населенням у контексті інтеграції України в світовий політико-правовий простір та втілення зобов'язань держави в галузі прав людини.

Ключові слова: правове регулювання, цивільний захист, використання засобів індивідуального бронезахисту цивільним населенням.

Problem Statement. The implementation of international legislation regarding the use of armor protection by civilians into national law is of paramount importance for several interrelated reasons. These reasons encompass the enhancement of civilian safety, the fulfillment of international obligations, the promotion of legal consistency, and the facilitation of accountability mechanisms.

By incorporating provisions of international law into national legislation, states can establish a legal framework that explicitly recognizes and upholds the rights of civilians to seek protection through armor. This legal recognition is crucial for fostering an environment where civilians feel empowered to take necessary precautions against violence, particularly in conflict-prone areas.

Moreover, the incorporation of international provisions into national law serves to fulfill states' obligations under international treaties. Many countries are signatories to various international agreements that mandate the protection of civilians during armed conflicts. Failure to implement these provisions domestically could lead to violations of international law, resulting in potential legal repercussions and loss of credibility on the global stage. By aligning national legislation with international standards, states demonstrate their commitment to upholding human rights and humanitarian principles, thereby reinforcing their legitimacy as responsible members of the international community.

Legal consistency is another critical aspect that underscores the importance of implementing international legislation into national frameworks. When national laws reflect international standards concerning armor protection for civilians, it creates a coherent legal environment that facilitates compliance among various stakeholders, including government entities, law enforcement agencies, and civilians themselves. This consistency is essential for effective governance and ensures that all parties understand their rights and responsibilities in relation to civilian protection.

Furthermore, the integration of international provisions into national legislation enhances accountability mechanisms. By establishing clear legal standards for the use of armor protection by civilians, states can create frameworks for monitoring compliance and addressing violations. This is particularly significant in contexts where non-state actors may operate outside established legal norms. National laws that incorporate international standards can empower judicial systems to hold violators accountable, thereby promoting a culture of respect for human rights and humanitarian principles.

The importance of implementing such provisions is also determined by practical considerations. The rise of urban warfare and asymmetric conflicts makes the civilian population increasingly vulnerable to violence. In this context, providing civilians with legal protection allows them to use armor effectively, while ensuring that such activities are properly regulated. National laws can outline specific guidelines for the acquisition, use and storage of armor by civilians, thereby reducing the risks associated with misuse or illegal possession.

Integrating international legislation into national frameworks fosters public awareness and education regarding civilian rights in conflict situations. By codifying these protections within domestic laws, governments can promote understanding among citizens about their rights to use armor protection. This knowledge is vital for empowering individuals to take proactive steps in safeguarding themselves against potential threats.

As follows, the implementation of international legislation concerning armor protection for civilians into national law is essential for enhancing civilian safety, fulfilling international obligations, promoting legal consistency, facilitating accountability mechanisms, addressing practical challenges in contemporary conflicts, and fostering public awareness. Such integration not only strengthens the rule of law but also reinforces the commitment of states to uphold fundamental human rights and humanitarian principles in an increasingly complex global landscape.

The purpose of the article is to highlight the key provisions of international legislation on the use of individual armor protection equipment by civilians and to outline the prospects for their implementation in the national legislation.

State of scientific research on problematic. Legal grounds of civilian use of protection equipment have been explored by O. Marchenko, E. Kharitonov, O. Kharitonova, K. Nekit and others [1; 2; 3; 4; 5; 6; 7; 8]. However, international legal regulation of the use of individual armor protection equipment by civilians is not in the focus of attention of domestic scholars.

Main material. The international legislation concerning the use of armor protection by civilians is a complex and evolving area of law that intersects with various legal frameworks, including international humanitarian law (IHL), international human rights law (IHRL), and specific national regulations. The primary objective of these legal instruments is to safeguard civilians in conflict situations, ensuring their protection from the effects of armed conflict and violence.

International humanitarian law, particularly as articulated in the Geneva Conventions and their Additional Protocols, establishes fundamental protections for civilians during armed conflicts [9; 10].

The Geneva Conventions, particularly the Fourth Geneva Convention, provide a foundational legal framework for the protection of civilians during armed conflicts. Article 27 emphasizes the obligation to respect and ensure respect for the civilian population and prohibits acts of violence against them. This principle is critical when considering the context in which civilians may seek armor protection, as it underscores their right to safety and security in times of conflict [9].

The core principles of IHL, such as distinction, proportionality, and precautions in attack, are designed to minimize civilian casualties and damage to civilian objects. These principles underscore the obligation of all parties to a conflict to differentiate between combatants and non-combatants and to avoid targeting civilian populations. However, the application of these principles can be challenging in practice, especially in urban warfare scenarios where civilians may inadvertently become embroiled in hostilities.

International human rights law complements IHL by emphasizing the protection of individual rights even during armed conflicts. Key treaties such as the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child articulate rights that must be upheld regardless of the circumstances. These include the right to life, security of person, and freedom from torture or cruel treatment [11; 12]. The interplay between IHL and IHRL becomes particularly significant when considering the responsibilities of state actors and non-state armed groups towards civilians.

In addition to IHL, IHRL plays a crucial role in setting standards for civilian protection. The International Covenant on Civil and Political Rights asserts the right to life and security of person, which can be interpreted to include the right to seek protection from violence, including through the use of personal armor. Furthermore, various regional human rights instruments, such as the European Convention on Human Rights, reinforce these protections by obligating states to ensure the safety and security of individuals within their jurisdiction.

National legislation also plays a crucial role in regulating armor protection for civilians. Countries often enact laws governing firearms and ammunition control, which can influence how civilians access protective equipment. For example, laws may stipulate who can legally possess firearms for self-defense or hunting purposes, thus impacting civilian capabilities for personal protection. Additionally, regulations concerning explosives and firearms may include provisions for training and responsible use, further shaping the landscape of civilian armor protection.

Specific provisions related to firearms and ammunition control also have implications for civilian armor protection. For instance, national laws like Bulgaria's Law on the Control of Explosives, Firearms and Ammunitions establish regulations governing the acquisition, storage, and use of firearms by civilians. Article 14 permits legal entities and natural persons to acquire firearms for self-protection, which indirectly relates to the broader concept of personal armor protection. However, such laws often impose strict licensing requirements and background checks that can limit access to protective measures [13].

Moreover, treaties addressing specific types of weapons contribute to the overarching framework concerning civilian safety. The Convention on Cluster Munitions prohibits weapons that cause indiscriminate harm to civilians, thereby indirectly supporting the need for protective measures like armor. Similarly, the Convention on Anti-Personnel Mines aims to eliminate landmines that pose long-term threats to civilian populations, reinforcing the necessity for effective civilian protection strategies.

The enforcement of these legal provisions presents challenges. Compliance with international norms is often inconsistent across different contexts, with violations frequently occurring in conflict zones where civilians are most at risk. The rise of non-state armed groups complicates accountability efforts, as these entities may not adhere to established legal standards. Additionally, urban warfare scenarios create unique challenges for civilian protection due to the blending of combatants and non-combatants in densely populated areas.

Despite these legal frameworks, significant challenges persist in ensuring effective protection for civilians through armor measures. Compliance with international norms remains uneven across different contexts; violations often go unpunished due to a lack of political will or inadequate enforcement mechanisms. Moreover, the rise of non-state armed groups complicates accountability efforts since these entities may not adhere to established legal norms.

Urban warfare presents another critical challenge where traditional distinctions between combatants and civilians blur. The use of heavy explosive weapons in populated areas has led to devastating civilian casualties, prompting calls for stricter adherence to existing international declarations aimed at protecting civilians. The increasing prevalence of asymmetric warfare further complicates this issue, as state actors face difficulties in mitigating civilian harm while engaging non-state actors.

Thus, international legislation provides a robust framework aimed at protecting civilians through armor measures during armed conflicts, but numerous challenges hinder its effective implementation.

The interaction between IHL, IHRL, specific treaties addressing weaponry, and national regulations creates a multifaceted legal landscape that requires ongoing attention and adaptation. Enhanced cooperation among states, improved enforcement mechanisms, and increased awareness among military personnel regarding their legal obligations are essential steps toward achieving meaningful protection for civilians in conflict zones.

In summary, while international legislation does not explicitly outline provisions solely dedicated to armor protection for civilians, a comprehensive framework exists through IHL and IHRL that supports civilian safety in conflict situations. National laws regulating firearms also play a significant role in shaping access to protective measures. However, ongoing challenges in compliance and enforcement underscore the need for continued advocacy and reform aimed at enhancing civilian protection mechanisms globally.

Conclusion. The exploration of international legal regulation concerning the use of individual armor protection equipment by civilians presents a critical intersection of humanitarian principles, state

responsibilities, and individual rights. The integration of international norms into domestic legislation is not merely a procedural formality; it is an essential step towards enhancing civilian safety and fulfilling international obligations. The necessity for such legal frameworks becomes increasingly evident in light of contemporary conflicts, where civilians are often the most vulnerable.

In addressing the complexities surrounding civilian armor protection, it is imperative to recognize the multifaceted nature of the legal landscape. The interplay between international humanitarian law (IHL) and international human rights law (IHRL) offers a comprehensive foundation for understanding how states can effectively safeguard civilian populations. The principles enshrined in these legal frameworks – such as distinction, proportionality, and accountability - serve as guiding tenets for adopting national regulations.

The commitment to aligning national legislation with international standards not only enhances civilian safety but also reinforces states' legitimacy on the global stage. As conflicts evolve, so too must our legal frameworks, ensuring that they remain responsive to the needs of civilians in an increasingly complex world. The integration of international provisions into national law is thus not only a legal imperative but also a moral obligation that underscores our collective responsibility to protect those most at risk in times of conflict.

REFERENCES:

1. Marchenko O.S. Personal protective equipment: types and classification. *Modern special equipment*. 2017. № 1. P. 61–66.
2. Problems of exercising and protecting civil rights under martial law: monograph / edited by E. Kharitonov, O. Kharitonova, K. Nekit. National University 'Odesa Law Academy'. Odesa: Phoenix, 2023. 336 p.
3. Peculiarities of Civil Protection in the Conditions of Military Conflict: a monograph / edited by R. Mugavero, V. Andronov and M. Kustov. Kharkiv-Rome: National University of Civil Protection of Ukraine, 2023. 238 p.
4. Gurzhii T.O., Gurzhii A.V. Sanctioning powers of the national security councils. *Juridical scientific and electronic journal*. 2023. № 12. P. 585–588.
5. Karmaza, O.O., Sarana, S.V., Fedorenko, T.V., Gurzhii, T.O., Nefedova, A.V. The protection of civil rights and interests in the court. *Journal of Advanced Research in Law and Economics*. 2018. №9(8). P. 2622-2630.
6. Gurzhii, T., Gurzhii, A., Jakuszewicz, A. Public law and administration under conditions of hybrid warfare (the experience of ukraine). *Comparative Law Review*. 2021. № 27. P.195-218.
7. Goncharuk S., Kuzmenko O., Berlach A., Yarmaki K. Establishment of the institute of administrative responsibility in the legal system of Ukraine. *Journal of Law and Political Sciences*. 2021. Vol. 26 (1). P. 261-284.
8. Luk'yanets D., Markova O., Gurzhii, T., Petritsky A. Conceptual model of administrative procedure for Ukraine. *Astra Salvensis*. 2022. №1. P. 329-346.
9. Geneva Conventions of 1949. United Nations, Treaty Series. Vol. 75. P. 31–85.
10. Additional Protocols to the Geneva Conventions. United Nations, Treaty Series. Vol. 1125. P. 609–710.
11. International Covenant on Civil and Political Rights. United Nations, Treaty Series. Vol. 999. P. 171.
12. Convention on the Rights of the Child. United Nations, Treaty Series. Vol. 1577. P. 3.
13. Bulgaria Law on the Control of Explosives, Firearms and Ammunitions. *State Gazette*. №133, November 11, 1998.