



# Ukraine

*Mobilisation*



Centre for Documentation  
and Counter Extremism

**DRC** DANISH  
REFUGEE  
COUNCIL

This report is not, and does not purport to be, a detailed or comprehensive survey of all aspects of the issues addressed. It should thus be weighed against other country of origin information available on the topic.

The report at hand does not include any policy recommendations. The information does not necessarily reflect the opinion of the Danish Immigration Service (DIS) or the Danish Refugee Council (DRC).

Furthermore, this report is not conclusive as to the determination or merit of any particular claim to refugee status or asylum. Terminology used should not be regarded as indicative of a particular legal position.

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## Executive summary

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As a rule, all Ukrainian men aged between 18 and 60 are liable for mobilisation.

The Armed Forces of Ukraine mobilises different categories of profiles, based on military background, professions, expertise and needs. As the regular conscription of men between 18 and 27 years is suspended during martial law, men in this age category are, generally, not mobilised, unless having completed military service before 24 February 2022. Other profiles liable for military service include Ukrainian nationals residing abroad, Ukrainians with dual citizenship as well as some categories of women.

Some categories of persons are eligible for exemption from mobilisation, such as persons with disabilities and caretakers. The procedure for applying for exemption is irregular and there are cases of persons being mobilised despite having a formal justification for exemption. Moreover, it is possible to apply for deferment, although there are examples of violations in the procedure.

Persons liable for military service receive a summons letter in person that must be signed upon receipt, after which they must approach the Territorial Recruitment and Social Support Centre (TRC) within a specific period for military registration and undergo a medical examination. The procedure of mobilisation is not digitalised and handled manually, giving rise to irregularity and corruption. There is a prevalence of forceful mobilisation in all regions, involving elements of intimidation, violence and aggression by recruitment officers. The duration of service in the military is not systematically regulated, and, in general, it is difficult to be demobilised or granted leave of absence. Besides wounded servicemen, the consulted sources had no examples of servicemen being demobilised. Moreover, there are reports of insufficient military training and conditions during quartering.

Under martial law, there is no legal foundation for exemption from mobilisation on grounds of conscientious objection, and alternative service is therefore not an option. Therefore, refusal to serve with reference to conscientious objection is considered as draft evasion and punishable with imprisonment, which is enforced in practice.

It is a criminal offence to evade mobilisation or to desert from service. Since the adoption of amendments in January 2023 that introduced harsher punishment to deserters and evaders, it is uncertain to which extent the amended legislation has been enforced in practice, and reportedly, there has not been established legal practice yet. Legally, draft evaders and deserters returning from abroad are subject to prosecution, although it is not clear whether they in practice face prosecution due to limited legal practice to date.

Corruption in the mobilisation procedures is prevalent and widespread at all levels of the military system, mostly in the Military Medical Commissions (MMC) due to vague legal regulations and lack of digitalisation. Moreover, there is a high prevalence of persons liable for military service who pay bribes to circumvent mobilisation.

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## Introduction and methodology

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In June 2023, the Danish Immigration Service (DIS) published a report on exit rules, legislation regarding mobilisation, documentation and punishment of draft evaders and deserters from military service during martial law in Ukraine.<sup>1</sup> The report at hand is partly an update on information from the previous report, though this report mainly covers the topic of mobilisation. Specifically, this report focuses on updates to the legislation regarding mobilisation in Ukraine and its implementation during martial law, including profiles of the mobilised, exemption, deferment, mobilisation procedures, conditions during service, complaint procedures, conscientious objection and alternative service. Moreover, the report gives an update on corruption in the mobilisation procedure and punishment of draft evaders and deserters.

Interviewed sources highlighted matters related to reservation procedure for staff of humanitarian and international organisations, which were not included as topics in the Terms of Reference (ToR). One source also highlighted matters of forceful recruitment in the occupied territories by the Russian Federation. As the topics are deemed relevant, they are included in the report.

By contrast, the sources did not have information on some issues in the ToR; disciplinary punishment, prison conditions for draft evaders and deserters, and regional differences concerning conditions for mobilised persons.

The report is prepared in collaboration with the Danish Refugee Council (DRC). A fact-finding mission to Kyiv in Ukraine was carried out from 30 October to 3 November 2023 with the aim of collecting detailed and updated information on mobilisation. The ToR for the mission was drawn up jointly by DIS and DRC in consultation with the Danish Refugee Appeals Board as well as an advisory group on COI ('Referencegruppen').<sup>2</sup> The ToR is included in [Annex 2](#).

The purpose of the report is to provide updated background information for the processing of asylum cases in Denmark.

The EUAA COI Report Methodology has been applied in the writing process.<sup>3</sup> The report is based on a synthesis of information obtained from oral sources complemented by written sources.

With regard to the oral sources, the delegation interviewed ten sources of which two were consulted online. The sources comprised three international organisations, one Ukrainian authority, the National Agency on Corruption Prevention (NACP), one investigative journalist and five national Non-Governmental Organisations (NGOs) all with a presence in Ukraine. The sources interviewed were selected by the delegation based on their expertise, merit and experience. Multiple sources were chosen to ensure as precise and balanced data as possible. The sources

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<sup>1</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#)

<sup>2</sup> The group consists of the Danish Refugee Council (DRC), Amnesty International in Denmark, the Danish Institute for Human Rights, Dignity, representatives of a Christian organisation (Danish European Mission) and the Danish Bar and Law Society (representing asylum lawyers).

<sup>3</sup> EUAA, *EUAA Country of Origin Information (COI) Report Methodology*, February 2023, [url](#)

were asked how they preferred to be cited. Five sources requested anonymity for the sake of discretion and are thus cited according to their requests. The delegation requested a meeting with the Ministry of Defence of Ukraine; however, the request was not met.

All meetings with the sources were conducted in English without the use of a translator, however, the meetings with the National Agency on Corruption Prevention (NACP) and a Ukrainian Non-Governmental Organisation, were conducted in English partly with the use of a Ukrainian translator. Written sources in Ukrainian language, including legislation, were in some cases translated into English via an AI translation software. In other cases, English translations of the legislation were available on the website of the Ukrainian parliament.

The sources were briefed about the purpose of the report and that their statements would be included as an annex to the report. Minutes were written for each interview and forwarded to the sources for their approval, which gave the sources the possibility to amend, comment or correct their statements. All sources approved their statements, which can be found in [Annex 1](#). Care has been taken to present the views of the sources as accurately and transparently as possible. The individual sources should not be held accountable for the content of the report.

For the sake of transparency, accuracy and reader-friendliness, the paragraphs in the minutes of the interviews in Annex 1 have consecutive numbers, which are used in the footnotes when referring to the statements of the sources. Not all details and nuances of the sources' statements are addressed in the report, but all statements are kept in the minutes.

As a rule, the report covers legislation and procedures valid and applicable during martial law, following the introduction of the full-scale invasion by Russia on 24 February 2022. Attention should be paid to the changeable situation in Ukraine as well as the continuous change of legislation and procedures regarding mobilisation, which entails that data collected may quickly become outdated.

Regarding access to information, some topics of the ToR were by sources considered sensitive, such as information on draft evasion and desertion, the prevalence of corruption, conditions during military service and at the frontline and statistics regarding mobilisation, which in addition remain classified information. These circumstances might have influenced the information included in this report and the ability to collect sufficient, correct and updated information on the subjects.

As a major part of the chapter on corruption is based on information in a report by NACP in Ukrainian language, published in January 2024, the report is translated in its full length and attached in Annex 3.

The research and editing of the report were finalised on 29 February 2024.

The report is available on the website of DIS us.dk as well as on [asyl.drc.ngo](#), thus available to all stakeholders in the refugee status determination process as well as to the public.



## Historical background

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For many, the conflict between Ukraine and the Russian Federation came to the surface of attention with the Russian invasion on 24 February 2022. However, the conflict began eight years before. In November 2013, the former Ukrainian President Viktor Yanukovich rejected an association agreement with the European Union (EU), seeking closer ties to Russia and the Eurasian Economic Union instead. The rejection caused discontent among many Ukrainians, and large crowds of people gathered in protest in Kyiv on 21 November 2013. In February 2014, clashes between security forces and demonstrators climaxed causing several deaths. Demonstrators subsequently took control of government buildings all over Ukraine, while pro-Russian parliamentarians and, ultimately, President Yanukovich fled the country. In the aftermath, Russian-backed separatists began to storm government buildings in Eastern Ukraine proclaiming the independent Donetsk People's Republic and Luhansk People's Republic. Simultaneously, unmarked Russian soldiers took control of the Ukrainian peninsula Crimea, and, within a short period, the Russian Federation annexed Crimea after a highly disputed referendum.<sup>4</sup>

Ukrainian forces attempted in vain to retake the territory occupied by the separatists. A year later, in February 2015, Ukraine and Russia signed the Minsk II agreement, which theoretically was supposed to lead to a peace agreement, but effectively was a ceasefire agreement that was never respected by either party. From 2015 and onwards, the situation in Donetsk and Luhansk was continuously violent but a static conflict.<sup>5</sup>

In 2021, Russia began building up a large military presence close to the Ukrainian border. The Kremlin officially denied any military plans against Ukraine. The Russian President Vladimir Putin intensified confrontational rhetoric, e.g. questioning the right of Ukraine to exist and demanding a NATO retreat.<sup>6</sup>

On 24 February 2022, the Russian Federation initiated a full-scale invasion, attacking Ukraine from the north, the east and the south creating a frontline of more than 1,000 km. The Russian leaders called it a special military operation and the official aim was to demilitarise and denazify Ukraine.<sup>7</sup> However, fierce Ukrainian resistance, operational obstacles and incompetency halted the Russian invasion, and in the autumn of 2022, the Ukrainian Armed Forces retook several territories, including Kharkiv region and the city of Kherson. Since November and December 2022, no significant changes have happened at the frontline, despite a Ukrainian counteroffensive in the summer of 2023.<sup>8</sup>

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<sup>4</sup> CFR, *Global Conflict Tracker, War in Ukraine*, 17 October 2023, [url](#); CSIS, *Russia's War in Ukraine: Identity, History, and Conflict*, 22 April 2022, [url](#); International Crisis Group, *Conflict in Ukraine's Donbas: A Visual Explainer*, 2022, [url](#)

<sup>5</sup> CFR & PBS, *A historical timeline of post-independence Ukraine*, 22 February 2022, [url](#); ICG, *Conflict in Ukraine's Donbas: A Visual Explainer*, 2022, [url](#)

<sup>6</sup> Reuters, *Russia demands NATO roll back from East Europe and stay out of Ukraine*, 17 December 2021, [url](#); CFR, *Global Conflict Tracker, War in Ukraine*, Last updated 17 October 2023, [url](#)

<sup>7</sup> Russia, President of Russia, *Address by the President of the Russian Federation*, 24 February 2022, [url](#)

<sup>8</sup> BBC, *Ukraine in maps: Tracking the war with Russia*, 20 December 2023, [url](#); CFR, *Global Conflict Tracker, War in Ukraine*, Last updated 17 October 2023, [url](#)

## Abbreviations

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<b>COI</b>	Country of Origin Information
<b>DIS</b>	Danish Immigration Service
<b>EUAA</b>	European Union Agency for Asylum
<b>HRW</b>	Human Rights Watch
<b>IDP</b>	Internally Displaced Persons
<b>IHL</b>	International Humanitarian Law
<b>IWPR</b>	Institute for War and Peace Reporting
<b>LGBT</b>	Lesbian, gay, bisexual, and transgender
<b>MMC</b>	Military Medical Commission
<b>MoD</b>	Ministry of Defence
<b>NACP</b>	National Agency for the Corruption Prevention
<b>NGO</b>	Non-governmental organisation
<b>OHCHR</b>	The Office of the High Commissioner for Human Rights
<b>PoW</b>	Prisoner of War
<b>SBGS</b>	State Border Guard Service
<b>TRC</b>	Territorial Recruitment and Social Support Centres
<b>UHHRU</b>	Ukrainian Helsinki Human Rights Union
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## Glossary

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**Mobilisation, Military service, Military conscription:** In the report at hand, the term 'mobilisation' is used to describe the action of recruiting persons to serve in the military under martial law; 'military service' is used as the general term for serving in the armed forces, while 'military conscription' is used for the actions as such for recruiting persons to the armed forces during peace time. Military conscription as such is suspended during martial law.<sup>9</sup>

**Military ticket:** A military ticket (Військовий квиток) is a document that confirms the identity of an employee of the Armed Forces of Ukraine, the State Border Guard Service (SBGS), the Security Service and the Military Intelligence Service of Ukraine.<sup>10</sup> See [section 1.1.5](#).

**Forceful recruitment:** This report refers to forced or forceful recruitment as a coercive method involving elements of intimidation, violence and aggression.

**Exemption and deferment:** Article 23 in the law 'On Mobilisation Training and Mobilisation' describes the exclusion reasons for recruitment for mobilisation. The article confirms that the exclusion is not permanent, but a postponement. However, the article distinguishes between two definitions of exemptions: persons not subject to mobilisation (on exemption see chapter 1.4) and persons temporarily not subject to mobilisation (on deferment see chapter 1.5).<sup>11</sup>

**Reservation:** The Ukrainian Cabinet of Ministers Resolution No. 76 makes it possible to reserve staff from enterprises, institutions and organisations. These include local staff of international organisations, national and international NGOs and diplomatic representations in Ukraine that are critically important for the functioning of the economy and ensuring the livelihood of the population, and thus are temporarily not liable for mobilisation.<sup>12</sup>

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<sup>9</sup> Ukraine, Міністерство Оборони України [Ministry Of Defence Ukraine], *Удосконалення військового обліку призовників триває навіть в умовах воєнного стану* [The improvement of military records of conscripts continues even under martial law], 4 May 2023, [url](#)

<sup>10</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), pp. 30-31; Ukraine, *постановою № 1487 Кабінету Міністрів України, Порядок організації та ведення військового обліку призовників, військовозобов'язаних та резервістів* [resolution No. 1487, Cabinet of Ministers of Ukraine, Procedure for organizing and maintaining military records of conscripts, conscripts and reservists], 30 December 2022, Article 20, [url](#); Ukraine, *Указом Президента України № 582/2016* [Decree of the President of Ukraine No. 582/2016], *ПОЛОЖЕННЯ, про військовий квиток осіб рядового, сержантського і старшинського складу* [REGULATIONS on the military ID of privates, sergeants and petty officers], 30 December 2016, [url](#)

<sup>11</sup> Ukraine, Verkhovna Rada, *Закон України Про мобілізаційну підготовку та мобілізацію* [Law of Ukraine on Mobilisation Training and Mobilisation], 1993, Article 23, [url](#)

<sup>12</sup> Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Постанова, від 27 січня 2023 р. № 76, Деякі питання реалізації положень Закону України "Про мобілізаційну підготовку та мобілізацію" щодо бронювання військовозобов'язаних на період мобілізації та на воєнний час* [Some issues of implementing the provisions of the Law of Ukraine "On Mobilization Training and Mobilization" regarding the reservation of conscripts for the period of mobilisation and wartime], 27 January 2023, [url](#); International Organisation working in Ukraine: 2-5; An international humanitarian organisation with headquarter in EU: 25; Ukrainian Non-Governmental Organisation: 7; An international organisation: 2

**Territorial Recruitment and Social Support Centres (TRC):** The TRCs are regional centres that are responsible for mobilising and registering persons for the armed forces.<sup>13</sup> By some sources referred to as 'military commissions' or 'military recruitment offices'.

**Verkhovna Rada of Ukraine:** The Verkhovna Rada of Ukraine (Supreme Council) is the parliament of Ukraine.<sup>14</sup>

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<sup>13</sup> Visit Ukraine, *The Cabinet of Ministers has expanded the powers of the TRC for the period of mobilization: how they will work*, 9 February 2024, [url](#); The Kyiv Independent, *Military: Ukrainians can choose brigade for mobilization themselves*, 30 December 2023, [url](#)

<sup>14</sup> Verkhovna Rada of Ukraine, *Official portal*, n.d., [url](#)

# Map of Ukraine



Source: UN Geospatial (OCHA), Ukraine Profile Map: Map No. 3733 Rev. 7 October 2023 UNITED NATIONS, [url](#)

# 1. Mobilisation to the Armed Forces of Ukraine

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When Russian military forces initiated the full-scale invasion of Ukraine in the early morning of 24 February 2022, the Ukrainian president, Volodymyr Zelenskyy, declared both martial law<sup>15</sup> and a general mobilisation in all regions of Ukraine.<sup>16</sup>

Martial law is a special regime that can be introduced to parts of or the whole territory of Ukraine in the event of armed aggression; threat of attack; danger to the independence of the state or its territorial integrity, in accordance with the law ‘On the Legal Regime of Martial Law’.<sup>17</sup>

In Ukraine, the regulation and implementation of mobilisation is governed by the law ‘On Mobilisation Training and Mobilisation’ that establishes the legal foundation for introduction of mobilisation and the powers and responsibilities of different actors. The president can declare a partial or full mobilisation; the latter was declared in February 2022.<sup>18</sup>

Every citizen, men and women, in Ukraine have a duty to defend the country, its independence and territorial integrity, according to Article 65 of the Constitution of Ukraine.<sup>19</sup> As a general rule, every man between 18 and 60 years is liable for mobilisation; and also some categories of women. See more on mobilisation of women in [section 1.2.6](#).

The Ukrainian law ‘On Military Duty and Military Service’ defines the general principles of military service in Ukraine, as well as providing the legal regulations for the citizens of Ukraine in order to fulfil the constitutional duty to protect the country, its independence, and territorial integrity.<sup>20</sup>

The laws ‘On Military Duty and Military Service’ and ‘On Mobilisation Training and Mobilisation’ define who are liable to perform military service, who are exempted or deferred from military service, and who are liable to be called in as a reservist for military duty.<sup>21</sup>

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<sup>15</sup> Ukraine, Президент України [President of Ukraine], *Указ Президента України №64/2022 - Про введення воєнного стану в Україні* [Decree of the President of Ukraine No 64/2022 – On the introduction of martial law in Ukraine], 24 February 2022, [url](#)

<sup>16</sup> Ukraine, Президент України [President of Ukraine], *Указ Президента України №69/2022 - Про загальну мобілізацію* [Decree of the President of Ukraine No 64/2022 – About general mobilisation], 24 February 2022, [url](#)

<sup>17</sup> Ukraine, Verkhovna Rada, *Закон України про правовий режим воєнного стану* [Law of Ukraine on the Legal Regime of Martial Law], 11 June 2015, [url](#)

<sup>18</sup> Ukraine, Verkhovna Rada, *Закон України про мобілізаційну підготовку та мобілізацію* [Law of Ukraine on mobilisation training and mobilisation], 1993, [url](#); Ukraine, Президент України [President of Ukraine], *Указ Президента України №69/2022 - Про загальну мобілізацію* [Decree of the President of Ukraine No 64/2022 – About general mobilisation], 24 February 2022, [url](#)

<sup>19</sup> Ukraine, Verkhovna Rada, 28 June 1996, [url](#); Ukraine, *Закон України Про військовий обов'язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, article 1.1, [url](#)

<sup>20</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, preamble + article 1.1, [url](#)

<sup>21</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, preamble + article 1.1, [url](#); Ukraine, *Закон України про мобілізаційну підготовку та мобілізацію* [Law of Ukraine on mobilisation training and mobilisation], 1993, [url](#)



## 1.1 Updates to legislation since the beginning of 2023

### 1.1.1 Overall changes

In Ukraine, presidential decrees have historically been used to regulate the call for military service. Ukraine has inherited its military system from the Soviet Union and many of the laws and regulations, that govern the military, have not been updated to modern times.<sup>22</sup>

Since the full-scale invasion on 24 February 2022, different laws and regulations have been updated periodically. The most known has been the legislation covering the travel ban of men between 18 and 60 years, which has thoroughly been described by DIS in a report from June 2023.<sup>23</sup> This section intends to describe the most recent and important changes to the relevant legislations on mobilisation since the publication of the abovementioned report in June 2023.

As of the end of the editorial period of this report, there has not been any major changes in the main legislation regarding mobilisation since the beginning of 2023.<sup>24</sup> The Ukrainian government has, however, in two attempts proposed a revised bill on mobilisation.<sup>25</sup> (See [section 1.1.4](#)). By the end of February 2024, the second proposal is under process in Parliament. Minor changes in the law ‘On Mobilisation Training and Mobilisation’ took place in June 2023 and before that, in December 2022.<sup>26</sup>

Furthermore, there have been some changes and adjustments in the legislation on specific subjects pertaining to mobilisation. The relevant legislative changes on the specific subjects will be described in each section in this report, but a few of the most significant changes is highlighted in the following sections.

### 1.1.2 Reservations for local staff of international organisations, NGOs and diplomatic representations

In January 2023, the Ukrainian Cabinet of Ministers adopted Resolution no. 76, which sets out the procedure for temporary exemption from mobilisation for local staff of international organisations, national and international NGOs and diplomatic representations in Ukraine.<sup>27</sup>

<sup>22</sup> EUAA, *Query response on military service*, 7 December 2018, [url](#), p. 2

<sup>23</sup> Denmark, DIS, *Ukraine; Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#)

<sup>24</sup> NACP: 2; An International Organisation: 2

<sup>25</sup> Kyiv Post, *Second Attempt: Defense Ministry Revises Mobilization Bill*, 4 February 2023, [url](#)

<sup>26</sup> Ukraine, Verkhovna Rada, *Закон України про мобілізаційну підготовку та мобілізацію [Law of Ukraine on mobilisation training and mobilisation]*, 1993, [url](#)

<sup>27</sup> Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Постанова, від 27 січня 2023 р. № 76, Деякі питання реалізації положень Закону України “Про мобілізаційну підготовку та мобілізацію” щодо бронювання військовозобов’язаних на період мобілізації та на воєнний час [Some issues of implementing the provisions of the Law of Ukraine On Mobilization Training and Mobilization regarding the reservation of conscripts for the period of mobilisation and wartime]*, 27 January 2023, [url](#); An international humanitarian organisation with headquarter in EU: 25; International Organisation working in Ukraine: 2, 5; Ukrainian Non-Governmental Organisation: 7; An international organisation: 2

The resolution makes it possible to reserve staff employed in enterprises, institutions and organisations that are critically important for the functioning of the economy and ensuring the livelihood of the population.<sup>28</sup> In particular, the resolution created a legislative framework, and one source noted that it provided more clarity for specifically international organisations and diplomatic representations regarding their local staff.<sup>29</sup> In practice, however, the adoption of the resolution was followed by long and unclear procedures for obtaining such reservation.<sup>30</sup>

The resolution applies to all United Nations (UN) organisations, foreign diplomatic institutions in Ukraine, representations of donor institutions, implementers of international technical assistance projects, representations of international organisations, international and Ukrainian NGOs that implement humanitarian projects with the funds of international partners.<sup>31</sup> For further information, see [section 1.5.1](#).

### 1.1.3 Changes in regard to medical suitability

In August and September 2023, two changes were adopted in the legal framework regarding how the military medical authorities perform medical examinations, allowing people to be mobilised, despite that they previously would have been exempted for medical reasons.<sup>32</sup>

On 18 August 2023, the Ministry of Defence (MoD) of Ukraine issued an order<sup>33</sup>, which allowed the Military Medical Commissions (MMCs) to make changes to the degree of suitability of people to be mobilised.<sup>34</sup> The guidelines of the MMCs were subsequently determined by the MoD.<sup>35</sup> This act regulates how the MMCs are performing medical examinations.<sup>36</sup> According to a Ukrainian NGO, the new guidelines are actively enforced by the MMCs.<sup>37</sup>

<sup>28</sup> Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Постанова, від 27 січня 2023 р. № 76, Деякі питання реалізації положень Закону України “Про мобілізаційну підготовку та мобілізацію” щодо бронювання військовозобов’язаних на період мобілізації та на воєнний час* [Some issues of implementing the provisions of the Law of Ukraine ‘On Mobilization Training and Mobilization’ regarding the reservation of conscripts for the period of mobilisation and wartime], 27 January 2023, [url](#); International Organisation working in Ukraine: 2; An international organisation: 2

<sup>29</sup> International Organisation working in Ukraine: 2, 3, 6

<sup>30</sup> An International Organisation with headquarter in EU: 10; Ukrainian Non-Governmental Organisation: 7, 9; An International Organisation: 3; International Organisation working in Ukraine: 5

<sup>31</sup> International Organisation working in Ukraine: 3; An international organisation: 2

<sup>32</sup> Прысуп: 2; Ukrainian Non-Governmental Organisation: 2-5; Kyiv Independent, *Defense ministry amends rules exempting Ukrainians from mobilization on health grounds*, 3 September 2023, [url](#); UMP, *Буде більше придатних — Міноборони змінило наказ про ВЛК* [There will be more suitable ones - MoD has changed the order on the MMC], 2 September 2023, [url](#)

<sup>33</sup> Ukraine, Міністерство Оборони України [Ministry Of Defence Ukraine], *Наказ № 490 Про затвердження Змін до Положення про військово-лікарську експертизу в Збройних Силах України* [Order No. 490 On the approval of the Amendments to the Regulation on military medical examination in the Armed Forces of Ukraine], 18 August 2023, [url](#)

<sup>34</sup> Ukrainian Non-Governmental Organisation: 2; UMP, *Буде більше придатних — Міноборони змінило наказ про ВЛК* [There will be more suitable ones - MoD has changed the order on the MMC], 2 September 2023, [url](#)

<sup>35</sup> Ukraine, Міністр оборони України [Minister of Defence of Ukraine], *Наказ № 402 Положення про військово-лікарську експертизу в Збройних Силах України* [Order No. 402 Regulations on military medical examination in the Armed Forces of Ukraine], 14 August 2023, [url](#)

<sup>36</sup> Прысуп: 2

<sup>37</sup> Ukrainian Non-Governmental Organisation: 5



A Ukrainian NGO noted that previously, individuals with disabilities or some diseases were not subject to mobilisation, thus, in practice, they were exempted from it.<sup>38</sup> For instance, if a person showed up to the medical examination with a missing finger or another smaller limb, that person would be exempted from mobilisation on health reasons. Since September 2023, such individuals will now be liable for mobilisation. Likewise, if a soldier lost an arm or a leg during battle or similar, that person would previously have been demobilised and exempted for further service. After the legislative changes, such a person is obligated to return to military service after rehabilitation.<sup>39</sup>

The legislative changes also apply to certain types of diseases that previously would have led to exemption from mobilisation. The full list<sup>40</sup> includes among other fully cured tuberculosis, diabetes, certain heart conditions, HIV without symptoms, viral hepatitis, slowly progressing blood diseases etc.<sup>41</sup> However, a Ukrainian NGO and Pryncyp stated that people with such conditions do not serve in the combat zones, but will perform other tasks such as transportation, office duties etc.<sup>42</sup>

Despite of the guidelines, there are examples of individuals, who have been unlawfully mobilised to serve in the military, even though the disease was listed in the table of exemptions.<sup>43</sup>

According to Pryncyp, there is a strong desire for the military leadership to mobilise more people, which is the reason for the latest changes with regard to the assessment of suitability for serving in the military. Presently, there are three categories of suitability: 1) suitable for military service, 2) suitable for military service in units away from the front and 3) not suitable for military service. The Security Council of Ukraine has already approved the removal of the second category pertaining to people with certain health issues. However, the changes have not been implemented yet.<sup>44</sup> For further information on exemptions to mobilisation, see [section 1.4](#).

### *1.1.4 Draft proposal for changes to the law on mobilisation*

On 25 December 2023, the Cabinet of Ministers sent a draft proposal with changes to the law 'On Mobilisation Training and Mobilisation' to the Parliament, Verkhovna Rada of Ukraine.<sup>45</sup>

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<sup>38</sup> Ukrainian Non-Governmental Organisation: 2

<sup>39</sup> Ukrainian Non-Governmental Organisation: 3

<sup>40</sup> Ukraine, Міністерство Оборони України [Ministry Of Defence Ukraine], *Наказ № 490 Про затвердження Змін до Положення про військово-лікарську експертизу в Збройних Силах України [Order No. 490 On the approval of the Amendments to the Regulation on military medical examination in the Armed Forces of Ukraine]*, 18 August 2023, [url](#)

<sup>41</sup> Ukrainian Non-Governmental Organisation: 4; Pryncyp: 2; Kyiv Independent, *Defense ministry amends rules exempting Ukrainians from mobilization on health grounds*, 3 September 2023, [url](#)

<sup>42</sup> Pryncyp: 2; Ukrainian Non-Governmental Organisation: 4

<sup>43</sup> Pryncyp: 4

<sup>44</sup> Pryncyp: 3

<sup>45</sup> Kyiv Independent, *Government submits draft law on mobilization to Verkhovna Rada*, 25 December 2023, [url](#); Reuters, *Ukraine draft law proposes lowering mobilisation age to 25 from 27*, 26 December 2023, [url](#)

On 30 January 2024, the Ukrainian government submitted an amended version of its bill to tighten military mobilisation rules.<sup>46</sup> Kyiv Post highlighted some of the amendments in an article; however, the bill has not been published in its full length. According to Kyiv Post, the new bill proposes to lower the age of mobilisation from 27 to 25.<sup>47</sup> Moreover, the government proposes introducing basic military training for citizens aged 18 to 24. It will be mandatory for men and voluntary for women.<sup>48</sup>

## 1.2 Profiles of people liable for mobilisation

The Armed Forces of Ukraine mobilises different categories of profiles according to the law 'On Mobilisation Training and Mobilisation'<sup>49</sup> and the law 'On Military Duty and Military Service'.<sup>50</sup> Some people are mobilised due to their military background, and some are mobilised in accordance with their professions and expertise. For instance, the army is in charge of a list of persons liable for military service who hold certain positions or have specific expertise, who may be summoned depending on needs and staff shortages in the military.<sup>51</sup> In practice, military commanders assess the military professions that are needed and decide in which military areas they should serve.<sup>52</sup>

### 1.2.1 Number of persons mobilised to the Ukrainian military

The military authorities have classified the official number of Ukrainians mobilised to the military. Sources interviewed for this report did not know the number of Ukrainians mobilised since February 2022.<sup>53</sup> Nevertheless, sources report that more than one million have been mobilised.<sup>54</sup>

By the end of December 2023, the President of Ukraine on behalf of the Armed Forces of Ukraine proposed to mobilise 450-500,000 more Ukrainians into the armed forces.<sup>55</sup>

It is difficult to assess whether there are any regional differences in the number of persons mobilised. However, according to Legal Hundred and Pryncyp, the TRCs are in a better position to mobilise in smaller cities and rural areas compared to bigger cities, as it is easier to hide from

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<sup>46</sup> Verkhovna Rada, *Draft Law on Amendments to Certain Legislative Acts of Ukraine Regarding Certain Issues of Military Service, Mobilization, and Military Registration*, [url](#); Reuters, *Ukraine's govt submits amended mobilisation bill to parliament*, 31 January 2024 [url](#)

<sup>47</sup> Presently, men in the age category of 18 to 27 are generally not mobilised. See [section 1.2.2](#) for further information.

<sup>48</sup> Kyiv Post, *Second Attempt: Defense Ministry Revises Mobilization Bill*, 4 February 2023, [url](#)

<sup>49</sup> Ukraine, Verkhovna Rada, *Закон України про мобілізаційну підготовку та мобілізацію [Law of Ukraine on mobilisation training and mobilisation]*, 1993, [url](#)

<sup>50</sup> Ukraine, Verkhovna Rada, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, [url](#)

<sup>51</sup> Investigative journalist: 10

<sup>52</sup> Legal Hundred: 29

<sup>53</sup> Ukrainian Non-Governmental Organisation: 22; Legal hundred: 9

<sup>54</sup> Legal Hundred: 9; Investigative journalist: 2; Reuters, *Ukraine considers proposal by army to mobilise another 500,000 for war*, 20 December 2023, [url](#); BBC News, *Ukraine: The soldiers who can't leave the front line until the war is over*, 26 September 2023, [url](#)

<sup>55</sup> Reuters, *Ukraine considers proposal by army to mobilise another 500,000 for war*, 20 December 2023, [url](#); Deutsche Welle, *Ukraine updates: Military proposes extra mobilization*, 20 December 2023, [url](#)

mobilisation in bigger cities. Moreover, in the countryside inhabitants do not have enough savings to bribe TRC officers.<sup>56</sup>

### 1.2.2 Men beyond the age category of 18 – 60

As a rule, only men between 18 and 60 years are liable for mobilisation to military service during martial law.<sup>57</sup> Beyond this category, no one is mobilised unless on a voluntary basis.<sup>58</sup>

There are special regulations for men in conscription age between 18 and 27 years. During martial law, regular conscription is suspended. Hence, men of this age category are not mobilised unless having completed military service before 24 February 2022,<sup>59</sup> thus being registered as reservists.<sup>60</sup> However, some lawyers have stated in a news article on the proposed changes to lower the age for mobilisation that any adult male between 18 and 60 years can be mobilised during martial law.<sup>61</sup> Furthermore, men between the age of 18 and 27 are still restricted from leaving Ukraine.<sup>62</sup>

In addition, both male and female students, who attend a higher education, can sign up for military classes as an additional and voluntary part of their education. Once the military classes are completed, the persons will be registered as reservists and can be subjected to mobilisation, regardless of the age category.<sup>63</sup>

### 1.2.3 Mobilisation of Ukrainian nationals residing abroad

Ukrainian nationals residing abroad are liable for mobilisation.<sup>64</sup> They have an obligation to register with the Ukrainian representation in their country of residence and have their military record registered. Nevertheless, Ukrainians abroad generally refrain from registering at Ukrainian representations.<sup>65</sup> According to UHHRU and a humanitarian NGO, individuals failing to meet this obligation of registering at a Ukrainian representation are, in practice, not held legally responsible since there is no mechanism to summon them, and, generally, they will not face any problems with document issuance at the Ukrainian representation.<sup>66</sup> However, it is difficult to rule out the possibility of sanctions from the Ukrainian authorities upon return.<sup>67</sup> It was the opinion of a Ukrainian NGO that no Ukrainian national residing outside of Ukraine has been summoned.

<sup>56</sup> Legal Hundred: 10; Pryncyp: 7

<sup>57</sup> Ukrainian Non-Governmental Organisation: 18; Visit Ukraine, *Departure of men abroad in 2023: what has changed for military servicemen*, 7 January 2023, [url](#); the Guardian, *Ukraine's military plans to limit free movement to make conscription easier*, 6 July 2022, [url](#)

<sup>58</sup> Ukrainian Non-Governmental Organisation: 18; International Organisation based in Kyiv: 13; Legal Hundred: 15

<sup>59</sup> Ukrainian Non-Governmental Organisation: 19; Legal Hundred: 14; The Guardian: *Yes, tiredness is ravaging the Ukrainian soldiers I meet. But they never think of giving up*, 15 December 2023, [url](#)

<sup>60</sup> Ukrainian Non-Governmental Organisation: 19

<sup>61</sup> Visit Ukraine, *Conscription age cut to 25 in Ukraine: What will change and how will it affect mobilisation*, 31 May 2023, [url](#)

<sup>62</sup> Legal Hundred: 14; Ukrainian Non-Governmental Organisation: 21

<sup>63</sup> Ukrainian Non-Governmental Organisation: 20

<sup>64</sup> Legal Hundred: 11; UHHRU: 17; An international humanitarian organisation with headquarter in EU: 11

<sup>65</sup> Legal Hundred: 11; UHHRU: 18

<sup>66</sup> UHHRU: 18; An international humanitarian organisation with headquarter in EU: 11

<sup>67</sup> An international humanitarian organisation with headquarter in EU: 11

However, the Ukrainian NGO could not exclude that a Ukrainian national would be mobilised if the person was subjected to a criminal investigation abroad and subsequently deported to Ukraine.<sup>68</sup>

There have been political discussions about mobilising Ukrainians residing abroad. The President of Ukraine has had bilateral discussions with neighbouring countries on this topic.<sup>69</sup>

In terms of Ukrainians residing abroad who are returning to Ukraine, an international organisation noted that the primary areas of return or intended return include Kyiv oblast, Kyiv city, Mykolaiv, Chernivtsi and Kharkiv.<sup>70</sup> According to periodic surveys, concerns about mobilisation have been described amongst men as an obstacle to return.<sup>71</sup>

### *1.2.4 Mobilisation of Ukrainians with dual citizenship*

In Ukraine, a Ukrainian national with dual citizenship is only recognised as a Ukrainian citizen.<sup>72</sup> Hence, if a Ukrainian citizen is subject to mobilisation, it does not have relevance if the person holds dual citizenship.<sup>73</sup> The same applies if the second nationality is Russian.<sup>74</sup> There is no difference whether the second citizenship is Russian, Hungarian, Romanian, Slovak, Israeli etc.<sup>75</sup> Any individual who has been imposed Russian citizenship in Crimea, Donetsk, Luhansk, Zaporizhzhia or Kherson after 2014 by the occupation administration, and has not formally renounced the Ukrainian citizenship, is not legally considered a Russian citizen by Ukraine and can be mobilised.<sup>76</sup>

A person with dual Ukrainian-Russian citizenship may be subject to in-depth scrutiny by the military and security services with the aim of detecting possible sympathies with or connections to the Russian Federation.<sup>77</sup> According to an international organisation, the Ukrainian authorities have been active in investigating persons who support the Russian Federation, but such practice is not official.<sup>78</sup>

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<sup>68</sup> Ukrainian Non-Governmental Organisation: 23

<sup>69</sup> Ukrainian Non-Governmental Organisation: 23; Visit Ukraine, *Mobilization and demobilization in Ukraine: what changes does the government propose in the new draft law?*, 27 December 2023, [url](#)

<sup>70</sup> International Organisation: 16

<sup>71</sup> International Organisation: 14

<sup>72</sup> US Embassy in Ukraine, *Citizenship Service*, n.d., [url](#); Legal Hundred: 13; Ukrainian Non-Governmental Organisation: 26; An international humanitarian organisation with headquarter in EU: 12; International Organisation based in Kyiv: 19; UHHRU: 13

<sup>73</sup> Legal Hundred: 13; Ukrainian Non-Governmental Organisation: 26; UHHRU: 13-14; An International Humanitarian Organisation with headquarter in EU: 12; International Organisation based in Kyiv: 19

<sup>74</sup> Ukrainian Non-Governmental Organisation: 27; An international humanitarian organisation with headquarter in EU: 12; International Organisation based in Kyiv: 19; Legal Hundred: 13

<sup>75</sup> UHHRU: 14

<sup>76</sup> UHHRU: 13

<sup>77</sup> Ukrainian Non-Governmental Organisation: 27; An international humanitarian organisation with headquarter in EU: 12

<sup>78</sup> An international humanitarian organisation with headquarter in EU: 12

Ukrainian citizens, who are considered Russian-oriented, are mobilised on equal terms as other Ukrainian citizens.<sup>79</sup> For treatment of persons with Russian citizenship and Ukrainians considered pro-Russian, see [section 3.5](#).

### 1.2.5 Mobilisation of foreign nationalities and stateless persons

Foreign nationalities residing in Ukraine are not subject to mobilisation if they do not hold Ukrainian citizenship.<sup>80</sup> However, foreign nationalities can join the Armed Forces of Ukraine on a voluntary basis after signing a contract. Many foreigners serve in the Ukrainian military on a voluntary basis.<sup>81</sup>

In addition, stateless persons residing in Ukraine are not subject to mobilisation, as they do not hold Ukrainian citizenship.<sup>82</sup> As with foreign nationalities, stateless persons can join the military only on a voluntary basis after having signed a contract.<sup>83</sup>

According to the law 'On the Legal Status of Foreigners and Stateless Persons',<sup>84</sup> foreigners and stateless persons, who have joined the Armed Forces of Ukraine on a voluntary basis, are considered legal temporary residents in Ukraine for the period of contracted service. Such temporary residence of foreigners and stateless persons in Ukraine is listed in the military ticket of enlisted personnel.<sup>85</sup>

### 1.2.6 Mobilisation of women

According to the Constitution of Ukraine, the duty to protect the country applies to all citizens.<sup>86</sup> Some categories of women are obliged to register themselves, while others can register voluntarily.<sup>87</sup>

The legislation on military service<sup>88</sup> does not differentiate between men and women in its wording, as women, meeting the requirements listed below, have the same responsibility as men; they must

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<sup>79</sup> UHHRU: 12

<sup>80</sup> Ukraine, Verkhovna Rada, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, [url](#), Article 1, Paragraph 6; Legal Hundred: 12; Ukrainian Non-Governmental Organisation: 24

<sup>81</sup> Legal Hundred: 12; Ukrainian Non-Governmental Organisation: 24; ABC News, *Foreign fighters in Ukraine speak out on their willingness to serve: 'I had to go'*, 6 November 2022, [url](#)

<sup>82</sup> Ukraine, Verkhovna Rada, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, [url](#), Article 1, Paragraph 6; Legal Hundred: 16; Ukrainian Non-Governmental Organisation: 25; UHHRU: 16

<sup>83</sup> Legal Hundred: 16; Ukrainian Non-Governmental Organisation: 25; UHHRU: 16

<sup>84</sup> Ukraine, Verkhovna Rada, *Law of Ukraine On the Legal Status of Foreigners and Stateless Persons*, Document 3773-VI, 28 June 2023, [url](#)

<sup>85</sup> Ukraine, SMS, *Information for foreigners who participate in the Anti-Terrorist Operation*, n.d., [url](#)

<sup>86</sup> Ukraine, *Constitution of Ukraine*, official translation, 28 June 1996, [url](#)

<sup>87</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 21-23; Ukrainian Non-Governmental Organisation: 16, 17; An International Organisation: 8-10; An International Humanitarian Organisation with headquarter in EU: 13

<sup>88</sup> Ukraine, Verkhovna Rada, 28 June 1996, [url](#); Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, [url](#)

register for military service, complete military training and inform the TRCs of marital status, disability etc.<sup>89</sup> Similar to men, women can apply for exemption. There are exemption rules pertaining specifically to women.<sup>90</sup> For more information on exemption rules for women, see [section 1.4.4](#)

From 1 October 2023, in accordance with the law ‘On Military Duty and Military Service’, women in Ukraine between 18 and 60 years, who hold medical or pharmaceutical professions, such as nurses, pharmacists, doctors, dentists and midwives, are mandated to register at the TRCs, so they can be called up for mobilisation if they are declared medically fit by the MMCs.<sup>91</sup> According to a humanitarian NGO, women meeting the requirements can be fined if failing to register, however, the provision has not been applied yet.<sup>92</sup>

The order No. 313 of the Ministry of Defence of Ukraine includes a very detailed list of specialities that fall under the obligation of military registration of women. The list comprises a wide range of natural sciences, health care staff with many specialised professions, psychology, social work, engineering, military logistics, therapies, commercial skills etc.<sup>93</sup>

The same order mentions a very detailed list of professions and specialities that are covered by voluntary military service registration. Some of these specialities are also included in the list of specialities that fall under the obligatory specialities. At the time of editing this report, no explanation on the overlapping was found.<sup>94</sup>

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<sup>89</sup> European Business Association - EBA, *Women’s military registration. What will change from October 1, 2023?*, 5 October 2023, [url](#); CNN, *Women who have medical education must register for military service, says Ukraine*, 8 September 2023, [url](#)

<sup>90</sup> International Organisation: 8

<sup>91</sup> An International Organisation: 8-10; UHHRU: 25; Ukrainian Non-Governmental Organisation: 16; An International Humanitarian Organisation with headquarter in EU: 13; Legal Hundred: 17; Ukraine, *Verkhovna Rada*, 28 June 1996, [url](#); Ukraine, *Verkhovna Rada, Закон України Про військовий обов’язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, article 1, paragraph 11 and 12, [url](#); Visit Ukraine, *Military registration for women: who has to go to TAC in October?*, 10 September 2023, [url](#); Kyiv Independent, *Some Women in Ukraine Must Register for Army – Could Still Go Abroad*, 8 September, [url](#); European Business Association - EBA, *Women’s military registration. What will change from October 1, 2023?*, 5 October 2023, [url](#); CNN, *Women who have medical education must register for military service, says Ukraine*, 8 September 2023, [url](#); Hundred: 17

<sup>92</sup> An international humanitarian organisation with headquarter in EU: 13

<sup>93</sup> Ministry of Defence of Ukraine, Order No. 313, *On the approval of the List of specialities and / or professions related to the relevant military accounting specialities, after which women are accepted for military registration of those liable for military service and the List of specialities and / or professions related to the relevant military accounting specialities*, 11 October 2021, [url](#); European Business Association - EBA, *Women’s military registration. What will change from October 1, 2023?*, 5 October 2023, [url](#)

<sup>94</sup> Ministry of Defence of Ukraine, Order No. 313, *On the approval of the List of specialities and / or professions related to the relevant military accounting specialities, after which women are accepted for military registration of those liable for military service and the List of specialities and / or professions related to the relevant military accounting specialities*, 11 October 2021, [url](#); European Business Association - EBA, *Women’s military registration. What will change from October 1, 2023?*, 5 October 2023, [url](#)

In practice, sources emphasised that presently women are not required to do active military service; they can join voluntarily.<sup>95</sup> Hence, military registration does not lead to automatic mobilisation.<sup>96</sup> According to a humanitarian NGO, no Ukrainian women have been forcefully recruited.<sup>97</sup>

Contrary to this, while active military service is voluntary for women,<sup>98</sup> Legal Hundred mentioned that there are examples of women who have been mobilised on a non-voluntarily basis after 24 February 2022. The source, however, did not provide more information.<sup>99</sup> Furthermore, the policy and implementation of the legislation regarding mobilisation of women can change anytime, and consequently, women abroad are hesitant to return to Ukraine.<sup>100</sup>

Women, who have been registered in the military, may be called up for military service or assigned to perform tasks related to the defence of the country during martial law.<sup>101</sup> Moreover, military eligibility of women will be determined by diploma and the actual place of work.<sup>102</sup>

To be registered for military service, women, like men who are drafted, must meet the following criteria:

- they must be below the age of 60;
- the MMCs must declare the women fit for military service following a medical examination of their health;
- the MMCs must issue a resolution from the Military Intelligence Service stating 'fit for military service' or 'unfit for military service in peacetime, limited fit in wartime' to determine their suitability.<sup>103</sup>

Reportedly, border monitors have received an increase in counselling requests from women, particularly women with medical and pharmaceutical professions, seeking additional clarification on the law and the exemption requirements during the months of September and October 2023.<sup>104</sup>

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<sup>95</sup> Ukrainian Non-Governmental Organisation: 16; International Organisation based in Kyiv: 13; Legal Hundred: 18; An international humanitarian organisation with headquarter in EU: 13

<sup>96</sup> European Business Association - EBA, *Women's military registration. What will change from October 1, 2023?*, 5 October 2023, [url](#)

<sup>97</sup> An international humanitarian organisation with headquarter in EU: 13

<sup>98</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 22

<sup>99</sup> Legal Hundred: 18

<sup>100</sup> An international humanitarian organisation with headquarter in EU: 13

<sup>101</sup> European Business Association - EBA, *Women's military registration. What will change from October 1, 2023*, 5 October 2023, [url](#);

<sup>102</sup> CNN, *Women who have medical education must register for military service, says Ukraine*, 8 September 2023, [url](#)

<sup>103</sup> An International Organisation: 10

<sup>104</sup> An international Organisation: 11



Women meeting the criteria stipulated in order No. 313<sup>105</sup>, are restricted from crossing international borders.<sup>106</sup> According to news articles, travel restrictions only apply to women who are mobilised to the military and will not affect those women who are only registered in the military registry contrary to all men aged 18-60 who are covered by the general travel ban.<sup>107</sup> It seems, however, that official instructions to prevent women subjective to mobilisation from exiting have not been communicated to the State Border Guard Service (SBGS), and hence, the SBGS does not prevent women from exiting Ukraine.<sup>108</sup> According to a SBGS spokesperson, the fact that some women are mobilised does not mean that they will automatically be covered by a travel ban.<sup>109</sup> Nevertheless, UHHRU noted that women representatives from the public offices or administrations such as the judiciary, have been subjected to travel ban.<sup>110</sup> For more information on the exit rules and exemption, reference is made to the report of DIS from June 2023.<sup>111</sup>

### 1.3 Mobilisation procedures

Ukraine is facing increased pressure on its mobilisation efforts as the Russian aggression drags out, and as Ukraine fights a larger Russian army.<sup>112</sup> Reportedly, at the time of writing this report, a new mobilisation reform to strengthen the mobilisation efforts is on the way (see [section 1.1.4](#) for information regarding the draft proposal).<sup>113</sup>

The recruitment procedure is initiated when individuals liable for military service personally receive a summons letter that must be signed upon receipt. Without the receipt and signature of a summons letter, no person is obliged to register for mobilisation. The letter is to be handed over physically by an officer from the TRC or a police officer and cannot be handed over to anyone else than the intended recipient, e.g. a relative.<sup>114</sup> Following the receipt and signature of the letter, the

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<sup>105</sup> Ministry of Defence of Ukraine, Order No. 313, *On the approval of the List of specialities and / or professions related to the relevant military accounting specialities, after which women are accepted for military registration of those liable for military service and the List of specialities and / or professions related to the relevant military accounting specialities*, 11 October 2021, [url](#)

<sup>106</sup> CNN, *Women who have medical education must register for military service, says Ukraine*, 8 September 2023, [url](#)

<sup>107</sup> Visit Ukraine, *Military registration for women: who has to go to TAC in October?*, 10 September 2023, [url](#); Kyiv Post, *Some Women in Ukraine Must Register for Army – Could Still Go Abroad*, 8 September 2023, [url](#)

<sup>108</sup> International Organisation: 13; Suspilne.media, *Жінки із медосвітою, які з 1 жовтня мають стати на військовий облік, зможуть виїжджати за кордон — ДПСУ [Women with a medical education, who must register for military service from October 1, will be able to travel abroad — DPSU]* 28 September 2023, [url](#)

<sup>109</sup> Suspilne.media, *Жінки із медосвітою, які з 1 жовтня мають стати на військовий облік, зможуть виїжджати за кордон — ДПСУ, [Women with a medical education, who must register for military service from October 1, will be able to travel abroad — DPSU]*, 28 September 2023, [url](#); European Business Association - EBA, *Women's military registration. What will change from October 1, 2023?*, 5 October 2023, [url](#)

<sup>110</sup> UHHRU: 25

<sup>111</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#)

<sup>112</sup> Reuters, *Ukraine prepares army mobilisation reforms as war drags on – Zelenskiy*, 24 November 2023, [url](#); The Economist, *Ukraine's army is struggling to find good recruits*, 17 December 2023, [url](#)

<sup>113</sup> Reuters, *Ukraine prepares army mobilisation reforms as war drags on – Zelenskiy*, 24 November 2023, [url](#); Reuters, *Ukraine considers proposal by army to mobilise another 500,000 for war*, 20 December 2023, [url](#)

<sup>114</sup> Investigative journalist: 9; An international humanitarian organisation with headquarter in EU: 15; UHHRU: 21; Ukrainian Non-Governmental Organisation: 28; Legal Hundred: 4;



person of concern is obliged to appear in person at the TRC within the period specified in the letter.<sup>115</sup>

The TRCs are responsible for issuing military registration documents, such as conscript certificates, military tickets, temporary certificates etc. to persons liable for military service. Individuals summoned for mobilisation must pass a military medical examination and undergo training before serving in the military.<sup>116</sup> The MMCs are responsible for conducting a medical examination of the person liable for military service.<sup>117</sup>

Depending on the conclusion of the medical examination, and taking into account the level of relevant education and qualifications, the individual liable for military service may be declared military fit and be entered into the military register.<sup>118</sup> The TRCs determine whether medical examinations should be conducted.<sup>119</sup> If a person is declared military fit after the medical examination, the person receives another summons to a meeting, which specifies the time and place he or she must report.<sup>120</sup> However, if the TRCs consider that the flight risk is high, the officers can escort the person home, allowing him or her to collect his personal belongings, after which the person is mobilised immediately. The same can be the case if the person has a coveted military speciality.<sup>121</sup>

Military training is mandatory for mobilised persons, but the length and nature of training depend on previous military experience.<sup>122</sup> Before being sent to serve at the frontline of the armed forces, it is procedure to undergo training unless having recent military experience<sup>123</sup> (For further information on training, see [section 1.6.5](#)).

There is a high prevalence of mobilisation directly from the streets and in other public places, where the authorities check the military status of people and hand out summons to appear at the

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<sup>115</sup> An international humanitarian organisation with headquarter in EU: 15; Legal Hundred: 4; Ukrainian Non-Governmental Organisation: 28; Ukraine, Verkhovna Rada, Закон України Про військовий обов'язок і військову службу [*The Law of Ukraine about military duty and military service*], No. 2233-XII dated 25.03.92, No. 27, Article 386, 1992, [url](#), Article 14, Paragraph 6

<sup>116</sup> Ukraine, Verkhovna Rada, Закон України Про військовий обов'язок і військову службу [*The Law of Ukraine about military duty and military service*], No. 2233-XII dated 25.03.92, No. 27, Article 386, 1992, [url](#) Article 1, Paragraph 10

<sup>117</sup> Ukraine, Verkhovna Rada, Закон України Про військовий обов'язок і військову службу [*The Law of Ukraine about military duty and military service*], No. 2233-XII dated 25.03.92, No. 27, Article 386, 1992, [url](#), Article 14, Paragraph 9

<sup>118</sup> Ukraine, Verkhovna Rada, Закон України Про військовий обов'язок і військову службу [*The Law of Ukraine about military duty and military service*], No. 2233-XII dated 25.03.92, No. 27, Article 386, 1992, [url](#), Article 14, Paragraph 10

<sup>119</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 47

<sup>120</sup> Ukrainian Non-Governmental Organisation: 30

<sup>121</sup> Ukrainian Non-Governmental Organisation: 29

<sup>122</sup> Legal Hundred: 31

<sup>123</sup> Ukrainian Non-Governmental Organisation: 44

TRCs.<sup>124</sup> A Ukrainian NGO has described how checkpoints are frequent in border regions and between the regions.<sup>125</sup>

An international organisation working in Ukraine noted that the authorities have been more active with mobilisation in some regions, e.g. the Odesa region.<sup>126</sup> A person may receive a summons letter several times because the letters are sometimes automatically handed out in the street. When finishing a check at the TRCs, a person will receive a notice, in which the date of the completed check at a TRC appears. Hence, if the person is stopped by a military recruitment officer in the street, the person can present the notice and the military recruitment officer can conclude that the person does not need to show up at the TRC again.<sup>127</sup>

If an individual, who has received and signed the summons letter, fails to appear at the TRC on the date stated in the letter, the person of concern will be issued an administrative fine.<sup>128</sup> After paying the fine, the person of concern is still obliged to register at the TRC.<sup>129</sup> If the person fails to appear after a military medical examination has been concluded and a mobilisation order has been issued, the person is held criminally liable for failing to report.<sup>130</sup> If a person is not subject to mobilisation, he or she is issued a certificate that must be presented at the TRC during the document check.<sup>131</sup> Should the TRCs deviate from the legislative rules, it is possible to hand in a complaint regarding possible disobedience in the recruitment procedures. According to Legal Hundred, the complaint procedures are, generally, fair and mostly followed in practice.<sup>132</sup> For information regarding the punishment and treatment of military evaders, see [chapter 3](#).

The formal procedure of mobilisation is uniform across the country; there are no regional differences in the recruitment procedure.<sup>133</sup> According to Legal Hundred, the recruitment procedures are similar for mobilised persons and volunteers.<sup>134</sup>

### 1.3.1. Registration procedures

The TRCs have access to registered information on individuals persons liable for mobilisation from previous procedures, e.g. registration of address. In addition, the TRCs are able to exchange information on individuals across other authority registries, e.g. information from tax offices,

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<sup>124</sup> Legal Hundred: 8; International Organisation working in Ukraine: 9, 10; International Humanitarian Organisation with headquarter in EU: 9; Ukrainian Non-Governmental Organisation: 7, 12, 30

<sup>125</sup> Ukrainian Non-Governmental Organisation: 7, 11

<sup>126</sup> International Organisation working in Ukraine: 9

<sup>127</sup> Ukrainian Non-Governmental Organisation: 30

<sup>128</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 56; Legal Hundred: 4

<sup>129</sup> Legal Hundred: 4; Ukrainian Non-Governmental Organisation: 30

<sup>130</sup> Ukrainian Non-Governmental Organisation: 30; Legal Hundred: 4

<sup>131</sup> Ukrainian Non-Governmental Organisation: 30

<sup>132</sup> Legal Hundred: 5

<sup>133</sup> Investigative journalist: 9; Legal Hundred: 4; An international humanitarian organisation with headquarter in EU: 15; Ukrainian Non-Governmental Organisation: 35

<sup>134</sup> Legal Hundred: 4

banks etc., which enables TRCs to locate persons liable for mobilisation. However, there is a lack of a centralised digital database and the exchange of information is not quite effective.<sup>135</sup>

In this respect, several amendments to the mobilisation legislation have been proposed to the parliament. If these amendments are enforced, it will, according to Pryncyp, enable local bodies to mobilise individuals directly from the street.<sup>136</sup> Furthermore, UHHRU noted that there is a proposal to enable TRCs to receive information on persons liable for military service from official workplaces, which will enable mobilisation directly from the workplaces.<sup>137</sup>

There is currently no electronic procedure for receiving and signing the summons letter as described above.<sup>138</sup> While sources opined that recruitment procedures are uniform<sup>139</sup> and heavily regulated,<sup>140</sup> the un-digitalised procedure limits the opportunity for monitoring, which in turn leads to corruption and diminishes the effort to fight corruption.<sup>141</sup> The topic of corruption is unfolded in [chapter 4](#). Moreover, the fact that summons letters are handed over in person rather than being submitted via a digitalised procedure, gives persons liable for military service leeway to evade mobilisation by moving to other towns or addresses than officially registered. Recruitment officers of TRCs will not know where people are residing, because they only have information on the place of registration. Moreover, Ukrainian authorities do not have sufficient resources to search for concrete persons who are hiding to avoid mobilisation.<sup>142</sup>

### 1.3.2. Military ticket

A military ticket (Військовий квиток) is a document that confirms the identity of an employee of the Armed Forces of Ukraine, the State Border Guard Service (SBGS), the Security Service or the Military Intelligence Service of Ukraine.<sup>143</sup>

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<sup>135</sup> An international humanitarian organisation with headquarter in EU: 16

<sup>136</sup> Pryncyp: 6

<sup>137</sup> UHHRU: 24

<sup>138</sup> Investigative journalist: 9; Legal Hundred: 4; An international humanitarian organisation with headquarter in EU: 15; UHHRU: 19; Ukrainian Non-Governmental Organisation: 28

<sup>139</sup> Legal Hundred: 4; An International Humanitarian Organisation:15; Investigative Journalist: 9

<sup>140</sup> Legal Hundred: 4

<sup>141</sup> Pryncyp: 15; NACP: 10

<sup>142</sup> Investigative journalist: 15; UHHRU: 21

<sup>143</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, pp. 30-31, [url](#); Ukraine, *постановою № 1487 Кабінету Міністрів України, Порядок організації та ведення військового обліку призовників, військовозобов'язаних та резервістів [resolution No. 1487, Cabinet of Ministers of Ukraine, Procedure for organizing and maintaining military records of conscripts, conscripts and reservists]*, 30 December 2022, Article 20, [url](#); Ukraine, *Указом Президента України № 582/2016 [Decree of the President of Ukraine No. 582/2016], ПОЛОЖЕННЯ, про військовий квиток осіб рядового, сержантського і старшинського складу [REGULATIONS on the military ID of privates, sergeants and petty officers]*, 30 December 2016, [url](#)

The TRCs issue military tickets, except for the security services, which issue their own military tickets.<sup>144</sup>

Military tickets are issued to persons bound for military service, reservists, privates, non-commissioned officers and junior officers.<sup>145</sup> It is issued for conscription to military service; enlistment to higher military educational institutions and military classes of higher educational institutions; employment (contract) in the above-mentioned armed forces; by the end of alternative (non-military) service; removal or exclusion of military registration due to health reasons and demotion from officer to lower rank.<sup>146</sup>

The document contains information about date and place of birth, education and specialisation and marital status (page 1); military affiliation (p. 2-12); registration as a reservist (p. 13-15); weapons permissions (p. 16-17); call-up and end of mobilisation (p. 19-21) and military registrations (p. 22-25).<sup>147</sup> Pictures of the military ticket can be found in a technical description of the document in Ukrainian language on the website of the Ministry of Defence.<sup>148</sup>

### 1.3.3 Forceful recruitment methods

Sources interviewed differed in their view regarding to what extent forceful and coercive recruitment procedures are prevalent as of November 2023. In this regard, the investigative journalist opined that the definition of forced recruitment is unclear, and the distinction between forced, coercive and voluntary is blurry.<sup>149</sup> Nevertheless, this report refers to forced or forceful recruitment as a coercive method involving elements of direct intimidation, violence and aggression.

Three sources highlighted that compared to previously, forceful recruitment is more prevalent by November 2023 with examples of people being illegally detained, imposed travel bans and forced to appear at the TRCs.<sup>150</sup> It was reported that army recruiters have become increasingly aggressive

<sup>144</sup> Ukraine, Указом Президента України № 582/2016 [Decree of the President of Ukraine No. 582/2016], ПОЛОЖЕННЯ, про військовий квиток осіб рядового, сержантського і старшинського складу [REGULATIONS on the military ID of privates, sergeants and petty officers], 30 December 2016, article 3.1; 3.2; 3.3, [url](#)

<sup>145</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, p. 30-31, [url](#); Ukraine, Указом Президента України № 582/2016 [Decree of the President of Ukraine No. 582/2016], ПОЛОЖЕННЯ, про військовий квиток осіб рядового, сержантського і старшинського складу [REGULATIONS on the military ID of privates, sergeants and petty officers], 30 December 2016, [url](#)

<sup>146</sup> Ukraine, Указом Президента України № 582/2016 [Decree of the President of Ukraine No. 582/2016], ПОЛОЖЕННЯ, про військовий квиток осіб рядового, сержантського і старшинського складу [REGULATIONS on the military ID of privates, sergeants and petty officers], 30 December 2016, [url](#)

<sup>147</sup> Ukraine, Указом Президента України № 582/2016 [Decree of the President of Ukraine No. 582/2016], ПОЛОЖЕННЯ, про військовий квиток осіб рядового, сержантського і старшинського складу [REGULATIONS on the military ID of privates, sergeants and petty officers], 30 December 2016, article 4, [url](#)

<sup>148</sup> Ukraine, Ministry of Defence, *Military Ticket of Privates, Sergeants and Non-commissioned Officers, Technical Specification*, 17 August 2017, [https://www.mil.gov.ua/content/ddz/TY\\_2019/44vsiyskovyj\\_kvutok\\_ryadovogo\\_sklady.pdf](https://www.mil.gov.ua/content/ddz/TY_2019/44vsiyskovyj_kvutok_ryadovogo_sklady.pdf) [copy link into browser]

<sup>149</sup> Investigative journalist: 11

<sup>150</sup> UHHRU: 22-23; An international humanitarian organisation with headquarter in EU: 17-20; Ukrainian Non-Governmental Organisation: 12

in their recruitment methods and use of illegal tactics.<sup>151</sup> It is a result of persons liable for military service being less enthusiastic now to join the military compared to 2022 combined with the military manpower having limited resources,<sup>152</sup> and hence, the TRCs are struggling to fill the places and thus resort to other means of recruitment methods.<sup>153</sup>

A Ukrainian NGO opined that examples of violent and aggressive recruitment methods were more prevalent at the beginning of 2023 and decreased in the spring of 2023. The source emphasised that those methods have now stopped, or were at least less frequent, as a result of the uncovering of such cases on social media and the initiation of criminal cases against military officers using unlawful methods.<sup>154</sup> However, the same source opined that the problems with forceful and arbitrary mobilisation are widespread for the whole society.<sup>155</sup> An investigative journalist noted that violent forced recruitment does not happen often, although there have been examples of this.<sup>156</sup>

There is limited official accounting of forceful recruitment cases, and it is difficult to document cases, find witnesses and verify numbers and reports.<sup>157</sup> According to a news article by Reuters, the recruitment processes are happening out of view.<sup>158</sup> However, lawyers and activists have stated that there are thousands of examples of various degrees of coercion, and in November 2023, there were 226 publicly known court decisions related to unlawful mobilisation methods.<sup>159</sup>

Examples of forceful and coercive recruitment methods involve situations whereby individuals are rounded up on the street, subjected to violence and intimidation, held against their will, imposed travel bans, forcefully brought to the TRCs and coerced to sign the summons letter.<sup>160</sup> In the following, examples of forceful and coercive recruitment methods found in different sources are given (the list is not exhaustive):

- There are social media videos showing recruitment officers handing out summons letters on the street, at metro stations or gyms, using force against those who resist.<sup>161</sup> Others

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<sup>151</sup> NYT, 'People Snatchers': Ukraine's Recruiters Use Harsh Tactics to Fill Ranks, 15 December 2023, [url](#)

<sup>152</sup> The Economist, *Ukraine finds stepping up mobilisation is not so easy*, 26 February 2023, [url](#); Investigative journalist: 13; The Economist, *Ukraine's army is struggling to find good recruits*, 17 December 2023, [url](#); The Time, 'Nobody Believes in Our Victory Like I Do.' Inside Volodymyr Zelensky's Struggle to Keep Ukraine in the Fight, 30 October 2023, [url](#)

<sup>153</sup> The Economist, *Ukraine's army is struggling to find good recruits*, 17 December 2023, [url](#)

<sup>154</sup> Ukrainian Non-Governmental Organisation: 39-42

<sup>155</sup> Ukrainian Non-Governmental Organisation: 13

<sup>156</sup> Investigative journalist: 12

<sup>157</sup> Legal Hundred: 6-7; The Economist, *Ukraine finds stepping up mobilisation is not so easy*, 26 February 2023, [url](#)

<sup>158</sup> Reuters, *Ukrainian army proposal to call up more civilians gets mixed reaction in Kyiv*, 20 December 2023, [url](#)

<sup>159</sup> NYT, 'People Snatchers': Ukraine's Recruiters Use Harsh Tactics to Fill Ranks, 15 December 2023, [url](#)

<sup>160</sup> Investigative journalist: 12; Legal Hundred: 6-8; Ukrainian Non-Governmental Organisation: 39-40; An international humanitarian organisation with headquarter in EU: 17-19; UHHRU: 22-23; Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 39; BBC News, *Ukraine war: The men who don't want to fight*, 22 August 2023, [url](#); The Guardian, *Bribes and hiding at home: the Ukrainian men trying to avoid conscription*, 15 August 2023, [url](#)

<sup>161</sup> An International Humanitarian Organisation with headquarter in EU: 17; Reuters, *Ukrainian army proposal to call up more civilians gets mixed reaction in Kyiv*, 20 December 2023, [url](#)

show officers shoving men into cars and holding men against their will in the TRCs.<sup>162</sup> A Ukrainian NGO highlighted that military recruitment personnel hand out summons on the street demanding persons to report at TRCs; however, the individuals were not brought to serve in the armed forces immediately.<sup>163</sup>

- There are reports of recruitment officers confiscating individuals' passports after pulling them off the streets to ensure that they had to sign the summons. Moreover, there are examples of persons who have been taken from their jobs and brought to the TRCs.<sup>164</sup>
- Beatings at the TRCs have been documented.<sup>165</sup>
- There is moreover a prevalent fear of going to employment centres to apply for legal jobs due to the risk of being forcefully mobilised, and consequently, many men prefer illegal employment.<sup>166</sup>
- Finally, there are examples of people held in custody for two to three days *incommunicado* before being summoned and brought to the TRC.<sup>167</sup>

A humanitarian NGO noted that once someone has been brought to the TRC, there are limited opportunities for protecting oneself from forceful recruitment. The same source added that physical violence is less common compared to psychological pressure, especially when persons are stopped during the checks.<sup>168</sup> UHHRU noted that TRCs could hold people in custody or house arrest imposing them not to leave the country and bring them to the military units. There are also examples of people being illegally detained.<sup>169</sup>

### 1.3.3.1 Regional differences in forceful recruitment

In terms of regional differences in the prevalence of forceful recruitment, the situation is not entirely clear.

Three sources stated that in the eastern, western<sup>170</sup> and southern<sup>171</sup> regions, recruitment officers have been more active in using illegal recruitment methods,<sup>172</sup> while two sources assessed that the prevalence of forceful recruitment is the same across regions.<sup>173</sup> More specifically, there are reports from Odesa<sup>174</sup>, Lviv and Dnipro of forced mobilisation where recruitment officers have

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<sup>162</sup> An International Humanitarian Organisation with headquarter in EU: 18; NYT, 'People Snatchers': Ukraine's Recruiters Use Harsh Tactics to Fill Ranks, 15 December 2023, [url](#)

<sup>163</sup> Ukrainian Non-Governmental Organisation: 31

<sup>164</sup> NYT, 'People Snatchers': Ukraine's Recruiters Use Harsh Tactics to Fill Ranks, 15 December 2023, [url](#)

<sup>165</sup> An international humanitarian organisation with headquarter in EU: 17

<sup>166</sup> An international humanitarian organisation with headquarter in EU: 19

<sup>167</sup> UHHRU: 22-23

<sup>168</sup> An international humanitarian organisation with headquarter in EU: 17

<sup>169</sup> UHHRU: 22-23

<sup>170</sup> International Organisation working in Ukraine: 9; Ukrainian Non-Governmental Organisation: 36

<sup>171</sup> International Organisation working in Ukraine: 9; An international humanitarian organisation with headquarter in EU: 18

<sup>172</sup> International Organisation working in Ukraine: 9; Ukrainian Non-Governmental Organisation: 36; An international humanitarian organisation with headquarter in EU: 18

<sup>173</sup> Legal Hundred: 7; An international humanitarian organisation with headquarter in EU: 20

<sup>174</sup> International Organisation working in Ukraine: 9; An international humanitarian organisation with headquarter in EU: 18

used aggressive force against males travelling in buses or cars and brought them to TRCs against their will to be mobilised immediately.<sup>175</sup>

According to a humanitarian NGO and a Ukrainian NGO, forceful recruitment is a risk for all profiles and widespread for the entire society.<sup>176</sup> However, the Ukrainian NGO and an international organisation working in Ukraine noted that there are fewer such cases in Kyiv.<sup>177</sup> Part of the explanation for this is that inhabitants in Kyiv are more knowledgeable about the rules and regulations, resulting in higher abundance by recruitment officers and a more polite attitude at checkpoints.<sup>178</sup> Moreover, there is a tendency that forceful recruitment happens more frequently in smaller cities and in the countryside, as inhabitants are generally less aware of their rights.<sup>179</sup> Because of these differences, people are afraid to move between provinces, as they fear mobilisation.<sup>180</sup> Generally, military checks are most frequent on the street and in other public spaces, such as gyms, nightclubs, and checkpoints as well as at entries and exits between the cities, towns and villages,<sup>181</sup> resulting in people being afraid to move around.<sup>182</sup>

### *1.3.2.2 Forceful recruitment methods against Ukrainian nationals in the occupied territories by the Russian Armed Forces*

Forceful recruitment methods by the Russian Armed Forces of Ukrainian citizens have been documented in the occupied territories in the south and east of Ukraine.<sup>183</sup> International Humanitarian Law (IHL) prohibits the occupying power, in this case the Russian Federation, to mobilise residents of occupied territories into its armed forces.<sup>184</sup> An international organisation noted that compelling Ukrainian citizens to serve in the Russian Armed Forces is an additional IHL violation to the unlawful imposition of Russian passports constituting a grave breach of the Geneva Convention.<sup>185</sup> While such cases are documented, the source could not establish whether the cases compose a pattern.<sup>186</sup>

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<sup>175</sup> An international humanitarian organisation with headquarter in EU: 18

<sup>176</sup> An international humanitarian organisation with headquarter in EU: 20; Ukrainian Non-Governmental Organisation: 13

<sup>177</sup> International Organisation working in Ukraine: 9; Ukrainian Non-Governmental Organisation: 35

<sup>178</sup> Ukrainian Non-Governmental Organisation: 35

<sup>179</sup> Ukrainian Non-Governmental Organisation: 41; An international humanitarian organisation with headquarter in EU:19

<sup>180</sup> Ukrainian Non-Governmental Organisation: 37

<sup>181</sup> An international humanitarian Organisation with headquarter in EU: 9

<sup>182</sup> International Organisation working in Ukraine: 10

<sup>183</sup> IWPR, *Ukrainians Forcibly Recruited to Russian Army*, 6 June 2023, [url](#); International Organisation based in Kyiv: 15; HRW, *Russia Forces Ukrainians in Occupied Areas into Military*, 20 December 2023, [url](#); OHCHR, *Report on the Human Rights Situation in Ukraine, 1 August 2023- 30 November 2023*, [url](#), p. 13

<sup>184</sup> International Organisation based in Kyiv: 14; Office of the High Commissioner of Human Rights – OHCHR, *Report on the Human Rights Situation in Ukraine, 1 February – 31 July 2023*, [url](#), p. 21

<sup>185</sup> International Organisation based in Kyiv: 16

<sup>186</sup> International Organisation based in Kyiv: 15



As of August 2023, 60,000 residents of the occupied territories were, according to the Kyiv Independent, reportedly forcibly mobilised into the Russian Armed Forces since February 2022.<sup>187</sup> The number could not be corroborated by other sources.

It is well-known that Ukrainians in the occupied territories are being imposed Russian passports. Otherwise they will face limited access to healthcare, social services, employment etc. In practice, obtaining Russian citizenship may lead to mobilisation to the Russian Armed Forces.<sup>188</sup> Such procedures date back to the illegal annexation of Crimea in 2014.<sup>189</sup>

There are examples of the use of detention<sup>190</sup>, interrogation, threats and coercive tactics by the Russian Armed Forces in Donetsk and Luhansk regions to compel men to join and sign contracts with them,<sup>191</sup> as well as incidents of carrying out raids and detaining local residents before being sent to specially equipped field camps ahead of participating in hostilities.<sup>192</sup> In addition, Ukrainian civilians have been forced into special detachments (military units) and drugged, and anyone attempting to escape reportedly risked execution.<sup>193</sup> There are seven documented cases of men from Donetsk and Luhansk who were conscripted into the separatists' militias in February 2022 and deployed at the frontline.<sup>194</sup>

The Russian Armed Forces have absorbed the militias and forced the signing of contracts with its members. Refusing to sign contracts, their commanders threatened to deploy the members of the militias to the frontline assault units, and those leaving their units were considered deserters. In five of the cases, the Russian authorities searched the men's homes and compelled their female relatives to unveil their whereabouts or face consequences, such as criminal prosecution or denying school enrolment.<sup>195</sup>

On 1 October 2023, in the annual fall military conscription campaign, the Russian authorities, for the first time, included the occupied regions of Donetsk, Luhansk, Kherson and Zaporizhzhia with the result that men aged 18 to 27 in the occupied territories were subjected to conscription for a period of 12 months into the Russian Armed Forces fighting their own country.<sup>196</sup> Moreover, there are cases of Ukrainian Prisoners of War (POWs) in Ukraine, who have been mobilised into the Russian Armed Forces. The treatment of these POWs depends on the situation; some have been prosecuted for treason while others were exchanged back to Russia. According to an international organisation, the POWs often have the choice to decide whether they wish to be exchanged back

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<sup>187</sup> The Kyiv Independent, *HUR Reports Forcible Mobilization of 60,000 Residents of the Occupied Territories Into Russian Army*, 1 August 2023, [url](#)

<sup>188</sup> International Organisation based in Kyiv: 16

<sup>189</sup> International Organisation based in Kyiv: 16; IWPR, *Ukrainians Forcibly Recruited to Russian Army*, 6 June 2023, [url](#)

<sup>190</sup> HRW, *Russia Forces Ukrainians in Occupied Areas into Military*, 20 December 2023, [url](#)

<sup>191</sup> *Report on the Human Rights Situation in Ukraine, 1 February – 31 July 2023*, [url](#), p. 21

<sup>192</sup> IWPR, *Ukrainians Forcibly Recruited to Russian Army*, 6 June 2023, [url](#)

<sup>193</sup> IWPR, *Ukrainians Forcibly Recruited to Russian Army*, 6 June 2023, [url](#)

<sup>194</sup> OHCHR, *Report on the Human Rights Situation in Ukraine, 1 August 2023- 30 November 2023*, [url](#), p. 13

<sup>195</sup> OHCHR, *Report on the Human Rights Situation in Ukraine, 1 August 2023- 30 November 2023*, [url](#), p. 13

<sup>196</sup> OHCHR, *Report on the Human Rights Situation in Ukraine, 1 August 2023- 30 November 2023*, [url](#), p. 13



to Russia or undergo prosecution in Ukraine.<sup>197</sup> The International Organisation highlighted that the Government of Ukraine has a program for enrolment of Ukrainian citizens, who are already serving in the Russian Armed Forces, that grants immunity for prosecution if they turn themselves in.<sup>198</sup>

## 1.4 Exemptions from military service during mobilisation

As stipulated by the Constitution of Ukraine, every citizen has a duty to defend the country and is thus covered by the call for mobilisation.<sup>199</sup> However, certain groups can be exempted (permanently) or deferred (temporarily) as explained in this section and [section 1.5](#).

The law 'On Military Duty and Military Service'<sup>200</sup> regulates the rules for exemption to military service during peacetime. This applies to, for instance, individuals recognised with a disability or declared unfit for military service; persons with a child or who are supporting a spouse or parent with a disability or serious disease; persons who completed military service in another country (before acquiring Ukrainian citizenship); individuals convicted for a serious criminal offense etc.<sup>201</sup>

The law 'On Mobilisation Training and Mobilisation'<sup>202</sup> constitutes the legal basis for military service during a period of mobilisation. The same law establishes and regulates the reasons for exemption from recruitment for mobilisation. There is a distinction between the two definitions of exemptions: persons not subject to mobilisation and persons temporarily not subject to mobilisation (on deferment, see [section 1.5](#))<sup>203</sup>

The categories of people who are not subject to mobilisation are:<sup>204</sup>

- People reserved by state authorities and bodies, local self-government bodies, as well as enterprises, institutions and organisations;
- People recognised with disabilities or declared temporarily unfit for military service due to health conditions; see also [section 1.1.3](#) for recent changes on the exemption rules for people with medical conditions;
- Women and men who have three or more dependent children under the age of 18;
- Women and men who independently raise a child (children) under the age of 18;

<sup>197</sup> International Organisation based in Kyiv: 18

<sup>198</sup> International Organisation based in Kyiv: 17

<sup>199</sup> Ukraine, *Constitution of Ukraine*, 28 June 1996, [url](#)

<sup>200</sup> Ukraine, Verkhovna Rada, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, [url](#)

<sup>201</sup> Ukraine, Verkhovna Rada, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, article 18, [url](#); For more information on the rules for exemption during peacetime - See: Denmark, DIS, *Ukraine; Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, p. 18-21, [url](#)

<sup>202</sup> Ukraine, Verkhovna Rada, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Training and Mobilisation]*, 1993, [url](#)

<sup>203</sup> Ukraine, Verkhovna Rada, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Preparation and Mobilisation]*, 1993, Article 23, [url](#)

<sup>204</sup> Ukraine, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Preparation and Mobilisation]*, 1993, Article 23, [url](#)

- Women and men (incl. guardians) who raise a child under the age of 18 with a disability or an adult child with a disability in group I or II;<sup>205</sup>
- Women and men (incl. guardians) who raise a child with severe medical conditions;
- Women and men (incl. guardians) who have dependent orphans or children under the age of 18 deprived parental care;
- People engaged in constant care for a sick spouse, child or parent;
- People with a spouse or parent with disability;
- Guardians or people who provide constant care for a person with a disability;
- Women and men with a minor child (children), where one of the spouses are serving in the Armed Forces of Ukraine;
- Deputies of the Verkhovna Rada (the parliament of Ukraine) or of the Autonomous Republic of Crimea;
- Employees of the Armed Forces of Ukraine, incl. enterprises, institutions and organisations of the Ministry of Defence of Ukraine and other bodies and organisations in the sphere of state security (Security Services, National Guard, Police, Anti-corruption bodies etc.).<sup>206</sup>

### 1.4.1 Applying for exemption

The law on mobilisation sets the framework for applying for exemption from mobilisation on certain grounds.<sup>207</sup>

A person applying for exemption from mobilisation must approach the TRCs with the relevant documents.<sup>208</sup> An application must be submitted before a final decision about mobilisation has been made.<sup>209</sup> It is difficult to be exempted once a decision of mobilisation has been made.<sup>210</sup> For information on demobilisation, refer to [section 1.6.2.](#) and [1.6.3.](#)

The different kinds of exemptions require different kinds of documents to be submitted. For instance, if a person applies on the basis of diseases, documents from a hospital must be submitted and the person will have to undergo a new medical examination at the MMC etc.<sup>211</sup>

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<sup>205</sup> Ukraine, Verkhovna Rada, Про державну соціальну допомогу особам з інвалідністю з дитинства та дітям з інвалідністю [Law of Ukraine, On State Social Aid to Persons Disabled from Childhood and Disabled Children], Article 1, [url](#), Group of disability is determined by the medical and social examination body.

<sup>206</sup> Ukraine, Verkhovna Rada, Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Training and Mobilisation], 1993, Article 23, [url](#)

<sup>207</sup> UHHRU: 9; Legal Hundred: 19; International Organisation based in Kyiv: 9; Ukrainian Non-Governmental Organisation: 32

<sup>208</sup> Legal Hundred: 21; Ukrainian Non-Governmental Organisation: 32

<sup>209</sup> Legal Hundred: 21

<sup>210</sup> Legal Hundred: 22; Ukrainian Non-Governmental Organisation: 33; Pryncyp: 5

<sup>211</sup> Ukrainian Non-Governmental Organisation: 32; Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), Section 2.2. Document requirements during martial law

Three sources, on the one hand, stated that, in general, the rules and practices of exemption seem to be enforced and respected by the Ukrainian military authorities.<sup>212</sup> On the other hand, the same sources stated that there are some irregularities and examples of people, who had been summoned or mobilised despite formally having exemption reasons.<sup>213</sup>

#### 1.4.2 Violation in the exemption procedure

There are irregularities and cases of mobilisation of people who formally had reasons for exemption.<sup>214</sup>

In one case, a person with epilepsy was mobilised and died during military training. This example caused a public scandal and was raised before the Security Council and the president. This case was not an example of a dispute on the legislative interpretation, but a violation of the mobilisation procedures.<sup>215</sup> In another case, it was reported that a man, who needed to follow a special diet due to complex abdominal surgery, was unable to get a medical exemption certificate due to bureaucratic barriers and ended up fleeing the country to avoid mobilisation.<sup>216</sup> Another report mentions a person with mental disability who was sent to military training.<sup>217</sup>

Legal Hundred opined that the cases of irregularities and violations within the TRCs do not constitute a systemic problem; however, it happens relatively often. There are regional differences in the extent of compliance with the rules performed by the TRCs. In rural areas, there have been more examples of violations of the mobilisation procedure compared to larger urban areas where people more often have access to lawyers or can involve the media. At one point, Legal Hundred received a majority of complaints regarding three TRCs in the western part of Ukraine. After having notified the Ministry of Defence, who visited the TRCs, the situation allegedly changed.<sup>218</sup> However, according to the New York Times, the issue is prevalent all over the country. It occurs mainly among the impoverished social groups, since many people with resources either already fled the country or paid bribes to avoid mobilisation.<sup>219</sup> Furthermore, there are cases where people with fewer resources were mobilised, despite having legal reasons to be exempted.<sup>220</sup>

<sup>212</sup> UHHRU: 10; An international humanitarian organisation with headquarter in EU: 26; Legal Hundred: 23

<sup>213</sup> UHHRU: 10; An International Humanitarian Organisation with headquarter in EU: 27-28; Legal Hundred: 23

<sup>214</sup> UHHRU: 10; Pryncyp: 4; Legal Hundred: 23; An international humanitarian organisation with headquarter in EU: 26-28; NYT, 'People Snatchers': Ukraine's Recruiters Use Harsh Tactics to Fill Ranks, 15 December 2023, [url](#); Suspilne News, У військкоматі на Одещині не коментуватимуть обставини смерті мобілізованого з епілепсією [The military registration and enlistment office in the Odesa region will not comment on the circumstances of the death of a mobilized man with epilepsy], 5 August 2023, [url](#); BBC, Swimming rivers and faking illness to escape Ukraine's draft, 17 November 2023, [url](#)

<sup>215</sup> Suspilne News, У військкоматі на Одещині не коментуватимуть обставини смерті мобілізованого з епілепсією [The military registration and enlistment office in the Odesa region will not comment on the circumstances of the death of a mobilized man with epilepsy], 5 August 2023, [url](#); UHHRU: 10; Pryncyp: 4

<sup>216</sup> BBC, Swimming rivers and faking illness to escape Ukraine's draft, 17 November 2023, [url](#)

<sup>217</sup> NYT, 'People Snatchers': Ukraine's Recruiters Use Harsh Tactics to Fill Ranks, 15 December 2023, [url](#)

<sup>218</sup> Legal Hundred: 23

<sup>219</sup> NYT, 'People Snatchers': Ukraine's Recruiters Use Harsh Tactics to Fill Ranks, 15 December 2023, [url](#)

<sup>220</sup> An international humanitarian organisation with headquarter in EU: 28; NYT, 'People Snatchers': Ukraine's Recruiters Use Harsh Tactics to Fill Ranks, 15 December 2023, [url](#)

There have also been cases, where the TRCs have put pressure on individuals with exemption documents to be mobilised anyway.<sup>221</sup> According to a humanitarian NGO, people have to be aware of their rights and actively secure the needed documentation in order not to be summoned.<sup>222</sup>

### 1.4.3 Possibility to appeal

In general, there is a free legal aid system in Ukraine with access to free legal representation and guarantees. Since there are no special military courts or military justice system, all cases regarding exemption are processed at the normal civil courts, with legal guarantees in place.<sup>223</sup>

When an individual already has been mobilised, it is often difficult to be exempted and relieved from duty at a later stage.<sup>224</sup> The normal procedure for a person in service, who becomes eligible for exemption, is to hand over the claim, including proof of claim, to the commander. For instance, if a serviceman becomes a father to a third child, he must present his proof of fatherhood and that he has three children. The process usually takes a couple of weeks.<sup>225</sup> Legal Hundred also noted that there are examples of the rules of exemption not being followed in practice by the commanders.<sup>226</sup> Such cases of violation of the procedures by the commanders can be presented to a higher commander or to the courts.<sup>227</sup> However, a court decision on exemption will usually not be sufficient to be demobilised.<sup>228</sup> When a person has a specific position in the military, the person would probably not be relieved of service, at least not until a replacement has been found, despite a court decision on exemption. Only the commander of a unit can make such a decision.<sup>229</sup>

### 1.4.4 Women and exemption from mobilisation

In general, women are not mobilised to the Armed Forces of Ukraine. However, as stated in section [1.2.6](#) on the mobilisation of women, some categories of women are required to register for mobilisation due to their profession in the medical and pharmaceutical sphere. There are certain exemption rules pertaining specifically to women in these professions.<sup>230</sup>

The categories of exemptions are:

- Reserved medical workers who have received a deferment from military service;
- Women temporarily considered unfit for military service due to their health. If the new draft changes to the law on Mobilisation is adopted, this category will be abolished;
- Mothers with specific criteria who are taking care of dependents;<sup>231</sup>

<sup>221</sup> An international humanitarian organisation with headquarter in EU: 27

<sup>222</sup> An International Humanitarian Organisation with headquarter in EU: 28

<sup>223</sup> International Organisation based in Kyiv: 9; 23

<sup>224</sup> Legal Hundred: 22; Ukrainian Non-Governmental Organisation: 33; Pryncyp: 5

<sup>225</sup> Legal Hundred: 22; Pryncyp: 5

<sup>226</sup> Legal Hundred 22

<sup>227</sup> Legal Hundred: 22; Ukrainian Non-Governmental Organisation: 34

<sup>228</sup> Pryncyp: 5; Ukrainian Non-Governmental Organisation: 33

<sup>229</sup> Ukrainian Non-Governmental Organisation: 33; Pryncyp: 5

<sup>230</sup> Ukraine, Verkhovna Rada, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Training and Mobilisation]*, 1993, Article 23, [url](#); International Organisation: 8

<sup>231</sup> The source did not specify on the criteria of this category

- Women providing constant care to individuals in need;
- Women who are spouses, daughters, or daughters-in-law of disabled persons in the I or II group, provided that there are no other persons available to support them;
- Female students and academic staff of educational institutions;
- Women with close relatives who died or went missing in areas of anti-terrorist operations;
- Women already part of military or law enforcement units;
- Female volunteers who aided the military or law enforcement in anti-terrorist operations.<sup>232</sup>

## 1.5 Deferment

Deferment is a postponement of military service on a temporary basis. The legal reasons for deferment of military service during normal conditions (peacetime) are defined by article 17 of the law ‘On Military Duty and Military Service’. The reasons are related to the person’s family, health, educational or professional activities.<sup>233</sup>

As mentioned in [section 1.4](#) on exemptions, the law ‘On Mobilisation Training and Mobilisation’ describes the exemption reasons for recruitment for mobilisation. As was the case on exemptions, the law confirms that the deferment is not permanent, but a postponement. However, as described in the previous chapter on exemption, article 23 of the law distinguishes between two definitions of exemptions: persons not subject to mobilisation (exemption) and persons temporarily not subject to mobilisation (deferment).<sup>234</sup> Seemingly, there is not a clear-cut distinction in the law between exemption and deferment.

As examples of the possibility for deferment, sources consulted highlighted students attending pre-higher and higher education as well as employees of NGOs and international organisations.<sup>235</sup>

### 1.5.1 Deferment procedures

According to Legal Hundred, the rules were generally respected in practice; however, there have been examples of violations,<sup>236</sup> especially in rural territories.<sup>237</sup>

If a person formally wants to apply for deferment, he or she should approach the TRCs with the relevant documents stating the reason for deferment.<sup>238</sup>

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<sup>232</sup> International Organisation: 8

<sup>233</sup> Ukraine, Verkhovna Rada, *Закон України Про військовий обов’язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, article 17, [url](#); The Kyiv Post, *Sweeping Changes Proposed to Ukraine’s Draft Law*, 26 December 2023, [url](#); Denmark, DIS, Ukraine; Exit rules, exemptions from military service/mobilization during martial law, documentation, punishment of evaders and deserters from military service, June 2023, p. 18-19, [url](#)

<sup>234</sup> Ukraine, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Training and Mobilisation]*, 1993, Article 23, [url](#)

<sup>235</sup> International Organisation working in Ukraine: 2-3; An International Humanitarian Organisation with headquarter in EU: 8; NACP: 2

<sup>236</sup> Legal Hundred: 26

<sup>237</sup> Legal Hundred: 27;

<sup>238</sup> Ukrainian Non-Governmental Organisation: 32

When the status of deferment is approved, a document stating the legal right of deferral of military service is issued. If the reason is work-related, the document is issued by the Ministry of Economics, while if the reason is studies, the document is issued by the TRCs.<sup>239</sup> Formally, it would be possible to complain to a higher commander or the courts for the denial of deferral; however, it would most likely not be sufficient or result in a deferral.<sup>240</sup> Pryncyp stated that, in practice, it is considered more or less impossible to be released from service, even on health issues or disabilities.<sup>241</sup>

As already stated in [section 1.1.2](#), a resolution was adopted in January 2023 to clarify the definitions for deferment for staff of international organisations, NGOs and diplomatic representations.<sup>242</sup>

#### 1.5.1.1 Procedure for staff from organisations

Resolution No. 76 lays down the exact procedure on how relevant organisations apply for reservation of staff, as well as providing the format and template for applying.<sup>243</sup> In this procedure, ‘reservation’ is equivalent to the term ‘deferment’. See [Glossary](#).

All eligible organisations have to submit a joint application for reservation of persons employed by the organisation who are otherwise liable for military service. International organisations have to send an application to the Ukrainian Ministry of Foreign Affairs (MFA) that forwards the applications to the Ministry of Defence (MoD) and Ministry of Economy (MoE). National NGOs and other eligible organisations submit their applications directly to the MoD and MoE.<sup>244</sup> According to the procedure, the MoD has 10 working days to process the application, after which the application is sent to the MoE, which has five days to process the application. However, it took an International Organisation working in Ukraine five months to have their application processed.<sup>245</sup>

If the General Staff of the Armed Forces of Ukraine approves the applications, the MoE can provide each person with a general reservation of deferment for military service for a specific period.<sup>246</sup>

The procedure requires that the individual applying person must specify his military occupational speciality and military deficit code. The speciality is shown in the military registration papers,

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<sup>239</sup> Legal Hundred: 25

<sup>240</sup> Ukrainian Non-Governmental Organisation: 34; Pryncyp: 5

<sup>241</sup> Pryncyp: 5

<sup>242</sup> Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Постанова, від 27 січня 2023 р. № 76, Деякі питання реалізації положень Закону України “Про мобілізаційну підготовку та мобілізацію” щодо бронювання військовозобов’язаних на період мобілізації та на воєнний час [Some issues of implementing the provisions of the Law of Ukraine “On Mobilization Training and Mobilization” regarding the reservation of conscripts for the period of mobilisation and wartime]*, 27 January 2023, [url](#); An international humanitarian organisation with headquarter in EU: 25; International Organisation working in Ukraine: 2, 5; Ukrainian Non-Governmental Organisation: 7; An international organisation: 2

<sup>243</sup> International Organisation working in Ukraine: 6

<sup>244</sup> International Organisation based in Kyiv: 10; An international organisation: 3, An international organisation working in Ukraine: 8

<sup>245</sup> International Organisation working in Ukraine: 8

<sup>246</sup> International Organisation based in Kyiv: 10

which usually is a military ticket. If the specialty is absent, the person must approach the TRC and clarify his functions before resubmitting an application for reservation.<sup>247</sup>

### *1.3.1.2 Challenges*

The content of Resolution No. 76 also creates numerous challenges for the NGOs, in particular, since the rules became stricter and more complicated.<sup>248</sup> According to a Ukrainian NGO, the rules stipulated in Resolution No. 76 are not implemented in practice.<sup>249</sup>

First, as a requirement to obtain a reservation, the NGOs have to work with specific projects funded by certain international donors, and the number of NGOs that the MFA has approved is very limited.<sup>250</sup>

Second, the resolution states that the staff eligible for reservation must have a contract for a minimum of six months. However, many NGOs issue short-term contracts, usually less than six months, thus their staff would not be approved for reservation.<sup>251</sup>

Third, the application process has turned out to be very time-consuming. Even though almost a year has passed since the introduction of the resolution, the reservation status of many NGOs, as well as international organisations, is pending for a long time.<sup>252</sup>

The many challenges caused hesitation among male staff to approach the TRCs to obtain the necessary documents for the application. Some feared that it could lead to their mobilisation since there have been examples of individuals who received summons in this situation.<sup>253</sup> According to a survey conducted among NGOs working in Ukraine, the process for registering national and international NGOs carries a risk as the organisations must submit a list of all their staff liable for mobilisation, which could prompt an immediate issuance of mobilisation notices.<sup>254</sup>

## 1.6 Conditions for mobilised persons

### *1.6.1 General conditions in the Armed Forces of Ukraine*

The motivation amongst the population to join the army is decreasing,<sup>255</sup> despite polls showing the support for the Armed Forces of Ukraine remains high.<sup>256</sup> Ukrainian military servicemen report exhaustion and physical tiredness as a consequence of a long-lasting duty during the ongoing

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<sup>247</sup> International Organisation working in Ukraine: 7; An international organisation: 3- 4

<sup>248</sup> Ukrainian Non-Governmental Organisation: 7; International humanitarian organisation with headquarter in EU: 10, 26

<sup>249</sup> Ukrainian Non-Governmental Organisation: 7

<sup>250</sup> An international humanitarian organisation with headquarter in EU: 25

<sup>251</sup> Ukrainian Non-Governmental Organisation: 10

<sup>252</sup> International Organisation working in Ukraine: 5; Ukrainian Non-Governmental Organisation: 7; An international organisation: 3; An International Organisation with headquarter in EU: 10

<sup>253</sup> An international organisation: 3, 4

<sup>254</sup> An International Organisation with headquarter in EU: 10

<sup>255</sup> WSJ, *A Year Into War, Ukraine Faces Challenges Mobilizing Troops*, 23 March, [url](#); Reuters, *'At what cost?' Ukraine strains to bolster its army as war fatigue weighs*, 28 November 2023, [url](#); Ukrainian Non-Governmental Organisation: 38

<sup>256</sup> Visit Ukraine, *Elections in time of war and trust in Zelenskyy: how many Ukrainians support the President of Ukraine now?*, 15 October 2023, [url](#)



war.<sup>257</sup> Moreover, stress, anxiety, fear and guilt are prevalent amongst the servicemen; many seek psychological aid and further treatment at rehabilitation centres.<sup>258</sup> According to Reuters, the TRCs have been forced to call up older persons, making the average age of a serviceman in Ukraine around 43 years,<sup>259</sup> while the average age at the frontline is 40.<sup>260</sup>

### 1.6.2 Duration of military service and demobilisation

Currently, the legislation does not prescribe a period after which servicemen can be relieved from service during martial law.<sup>261</sup> According to the law 'On Military Duty and Military Service', during martial law, the terms of service are determined by decision of the President of Ukraine, which is either at the end of martial law or at the announcement of a demobilisation.<sup>262</sup> Within the editorial period, further information on an announcement of the President on the period of service could not be found.

Pursuant to the Decree of the President of Ukraine on regulations of military service, the terms of service for persons under contract in the event of martial law are concluded when demobilisation is announced.<sup>263</sup> Sources stressed that there is no official information on the length of service during the full-scale invasion.<sup>264</sup>

In October, November and December 2023, there were demonstrations in Kyiv and other regions by women, including mothers whose sons have been serving for more than 1.5 years under the Russian full-scale invasion and wives of combatants, demanding demobilisation and leave of

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<sup>257</sup> BBC, *Ukraine war: The men who don't want to fight*, 22 August, [url](#); The Guardian, *Yes, tiredness is ravaging the Ukrainian soldiers I meet. But they never think of giving up*, 15 December 2023, [url](#); Reuters, *Ukraine's citizen army struggles with a hidden enemy: combat stress*, 20 December 2023, [url](#); The Washington Post, *A gloomy mood hangs over Ukraine's soldiers as war with Russia grinds on*, 18 December 2023, [url](#); Legal Hundred: 30; Ukrainian Non-Governmental Organisation: 49

<sup>258</sup> Reuters, *Ukraine's citizen army struggles with a hidden enemy: combat stress*, 20 December 2023, [url](#)

<sup>259</sup> The Time, *'Nobody Believes in Our Victory Like I Do.' Inside Volodymyr Zelensky's Struggle to Keep Ukraine in the Fight*, 1 November 2023, [url](#)

<sup>260</sup> Reuters, *'At what cost?' Ukraine strains to bolster its army as war fatigue weighs*, 28 November 2023, [url](#)

<sup>261</sup> Legal Hundred: 28; Ukrainian Non-Governmental Organisation: 46; An International Humanitarian Organisation with headquarter in EU: 21

<sup>262</sup> Ukraine, Verkhovna Rada, 28 June 1996, [url](#); Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, article 23, Paragraph 3, [url](#);

<sup>263</sup> Ukraine, Verkhovna Rada, Decree of the President of Ukraine, *Про Положення про проходження громадянами України військової служби у Збройних Силах України [On the Regulations on Military Service in the Armed Forces of Ukraine by citizens of Ukraine]*, December 10, 2008 No. 1153/2008, Paragraph 9 of Clause 18, [url](#)

<sup>264</sup> Legal Hundred: 28; An international humanitarian organisation with headquarter in EU: 21; Ukrainian Non-Governmental Organisation: 46;



absence after 18 months of duty.<sup>265</sup> Moreover, there are reports of servicemen having served for between 15 and 20 months during the invasion.<sup>266</sup>

In order to be demobilised, the law ‘On Military Duty and Military Service’ mentions four reasons for dismissal from military service during martial law:<sup>267</sup>

- Reaching the maximum age for military service;
- Due to the state of health based on the conclusion from the Military Medical Commission (MMC) on unfitness for military service with exclusion from military registration or unfitness for military service with a review after 6-12 months;
- As a result of a guilty verdict of a court, imposing punishment in the form of deprivation of liberty, restriction of liberty or deprivation of a military rank;
- Due to family circumstances or other valid reasons. See [section 1.4](#) on exemption.

The sources differed in their views regarding the possibility for demobilisation. In practice, it is difficult to get demobilised and there is no procedure for discharging those who have served since the start of the invasion.<sup>268</sup> Pryncyp noted that it is impossible to be demobilised and that the topic of demobilisation is very sensitive in Ukraine.<sup>269</sup> Differing from this, another Ukrainian NGO stated that demobilisation can only take place by handing in a dismissal request fulfilling the official requirements for dismissal.<sup>270</sup> A humanitarian organisation stated that only wounded soldiers tend to be demobilised, and that no one besides those have been demobilised. Still, there are examples of wounded persons who were discharged from the hospital and reinstated immediately at the front. The humanitarian NGO further stated that an unofficial order from the Military Commands specified that nobody can be demobilised.<sup>271</sup> If an individual brings a case to the court with a request to be demobilised, because of health issues or disabilities, the court decision is not necessarily sufficient to be demobilised.<sup>272</sup> For more information on exemption rules and procedures, see [section 1.4](#).

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<sup>265</sup> Suspilne.media, *Дружини військових з Тернополя вимагають розгляду законопроекту про демобілізацію [Wives of soldiers from Ternopil demand consideration of the bill on demobilization]*, 27 October 2023 (unofficial translation), [url](#); Suspilne. Media, *“It’s time for others.” In Dnipro, wives of soldiers demanded specific terms of mobilization and rotations for soldiers*, 12 November 2023, [url](#); Espresso.TV, *In the cities of Ukraine, the wives of soldiers who have been fighting for more than 1.5 years held pickets demanding demobilization*, 27 October 2023, [url](#); The Kyiv Independent, *‘It’s their turn now:’ Ukrainians call on government to demobilize exhausted soldiers fighting for nearly two years*, 15 January 2024, [url](#); Investigative Journalist: 16

<sup>266</sup> The Guardian, *Yes, tiredness is ravaging the Ukrainian soldiers I meet. But they never think of giving up*, 15 December 2023, [url](#)

<sup>267</sup> Ukraine, Verkhovna Rada, official translation, 28 June 1996, [url](#); Ukraine, *Закон України Про військовий обов’язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, article 26.2, [url](#)

<sup>268</sup> An international humanitarian organisation with headquarter in EU: 21; Ukrainian Non-Governmental Organisation: 46; Pryncyp: 5; The Guardian, *Yes, tiredness is ravaging the Ukrainian soldiers I meet. But they never think of giving up*, 15 December 2023, [url](#)

<sup>269</sup> Pryncyp: 5

<sup>270</sup> Ukrainian Non-Governmental Organisation: 46

<sup>271</sup> An international humanitarian organisation with headquarter in EU: 21

<sup>272</sup> Pryncyp: 5

In the autumn of 2023, a petition signed by 25,000 persons was sent to the President, demanding a clear timeline for when servicemen can be discharged.<sup>273</sup> Reportedly, in September 2023, the Ministry of Defence began working on a mobilisation strategy, which included finite periods of mobilisation and better systems for rotations.<sup>274</sup> Presently, nothing has been adopted and according to news articles, military servicemen and volunteers are obliged to serve until the end of the invasion.<sup>275</sup>

### 1.6.3 Leave of absence

According to the legislative framework, military personnel are allowed an annual leave of 30 days, as well as leave for family reasons for a duration of 10 days<sup>276</sup> with no more than 15 days at a time during martial law.<sup>277</sup> Other types of leave during martial law are terminated, except for leave to female military personnel who are allowed to take leave in connection with pregnancy, childbirth and caretaking of a child until the child reaches the age of three. Moreover, leave can be granted in connection with illness or treatment after an injury.<sup>278</sup>

In practice, it is difficult to be granted leave from military service despite fulfilling the official requirements and leave of absence is reported to be granted arbitrarily.<sup>279</sup> Exhaustion is not a reason for being granted leave of absence. Instead, rotations in battalions are used to accommodate exhaustion.<sup>280</sup> Despite this, there are media reports on issues with rotation and holidays<sup>281</sup> and servicemen not being rotated often enough.<sup>282</sup> Military servicemen serve for many months without a break, even though they are exhausted. If leave of absence is granted, the break is short; usually three days.<sup>283</sup> In cases of illness in the family, it is challenging to be relieved from service for a few days.<sup>284</sup>

<sup>273</sup> Reuters, 'At what cost?' Ukraine strains to bolster its army as war fatigue weighs, 28 November 2023, [url](#)

<sup>274</sup> The Economist, *Ukraine's army is struggling to find good recruits*, 17 December 2023, [url](#)

<sup>275</sup> BBC, *Ukraine war: Male citizens living abroad to be asked to join army*, 21 December 2023, [url](#); The Guardian, *Yes, tiredness is ravaging the Ukrainian soldiers I meet. But they never think of giving up*, 15 December 2023, [url](#)

<sup>276</sup> Visit Ukraine, *Military leave: can a serviceman go abroad?*, 5 July 2023, [url](#); Ukraine, Verkhovna Rada, *Закон України, Про соціальний і правовий захист військовослужбовців та членів їх сімей [The Law Of Ukraine on social and legal protection of military personnel and their family members]*, 1992, [url](#), Article 10, paragraphs 17- 19; Investigative Journalist: 17

<sup>277</sup> Ukraine, Verkhovna Rada, *Закон України, Про соціальний і правовий захист військовослужбовців та членів їх сімей [The Law Of Ukraine on social and legal protection of military personnel and their family members]*, 1992, [url](#), Article 10, paragraphs 17- 19; Investigative Journalist: 17

<sup>278</sup> Ukraine, Verkhovna Rada, *Закон України, Про соціальний і правовий захист військовослужбовців та членів їх сімей [The Law Of Ukraine on social and legal protection of military personnel and their family members]*, 1992, [url](#), Article 10, paragraphs 17- 19; Investigative Journalist: 17; Legal Hundred: 30

<sup>279</sup> An international humanitarian organisation with headquarter in EU: 22; Ukrainian Non-Governmental Organisation: 47; Investigative journalist: 18

<sup>280</sup> Legal Hundred: 30; Ukrainian Non-Governmental Organisation: 48

<sup>281</sup> BBC, *Ukraine war: Male citizens living abroad to be asked to join army*, 21 December 2023, [url](#); BBC, *Ukraine: The soldiers who can't leave the front line until the war is over*, 26 September 2023, [url](#)

<sup>282</sup> Reuters, *Ukraine's citizen army struggles with a hidden enemy: combat stress*, 20 December 2023, [url](#)

<sup>283</sup> An international humanitarian organisation with headquarter in EU: 22; Ukrainian Non-Governmental Organisation: 50

<sup>284</sup> Ukrainian Non-Governmental Organisation: 47

Military commanders make decisions on granting leave based on the reason for applying, taking into consideration the number of persons serving in the respective battalions.<sup>285</sup> The leave of absence granted to servicemen depends on the relationship with the commander and the situation at the front line,<sup>286</sup> and, according to a humanitarian NGO, it is commonly known that leave of absence is granted at the cost of a bribe.<sup>287</sup>

### *1.6.4 Military service at the frontline and in areas of active hostilities*

In general, there is limited information on the number of persons mobilised to serve at the front. In his end-of-year news conference, President Zelenskyy suggested that there are currently 500,000 Ukrainian troops at the front.<sup>288</sup>

Legal Hundred noted that military commanders decide where mobilised people should serve. The decision to fill positions at the front depends on which services are needed, such as ground soldiers, artilleryists etc. People are mobilised according to their expertise and specialisation and not to the front per se.<sup>289</sup>

There is no appeal option on the placement of service. Refusing to follow the order of placement is considered an offense and is subject to trial.<sup>290</sup>

While conscientious objection and alternative service are not an option during martial law (see [chapter 2](#)), there is a possibility of being appointed to positions in the military that do not involve weapon handling.<sup>291</sup> Some servicemen, who are against weapon handling, may be positioned away from combat zones, taking up positions in kitchen service, transportation etc.<sup>292</sup>

Moreover, there are rotations in battalions serving at the front.<sup>293</sup> For instance, if a serviceman has served at the frontline, the serviceman will be sent to another place of fierce combat after a break<sup>294</sup> or be reserved for serving at the frontline again at a later stage.<sup>295</sup> According to the Guardian, there are reports of individuals having served at the frontline for over 18 months.<sup>296</sup>

### *1.6.5 Training conditions*

Military training is mandatory for mobilised persons, but the length and nature of the training depend on previous military experience, although the training is generally shorter during martial law compared to training in peacetime. Servicemen, who have not previously completed military

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<sup>285</sup> Legal hundred: 30

<sup>286</sup> Investigative journalist: 18

<sup>287</sup> An international humanitarian organisation with headquarter in EU: 22

<sup>288</sup> BBC, *Ukraine war: Male citizens living abroad to be asked to join army*, 21 December 2023, [url](#)

<sup>289</sup> Legal Hundred: 29

<sup>290</sup> Legal Hundred: 29

<sup>291</sup> Investigative journalist: 13; Ukrainian Non-Governmental Organisation: 55; UHHRU: 11

<sup>292</sup> Ukrainian Non-Governmental Organisation: 55; Investigative journalist: 13

<sup>293</sup> Ukrainian Non-Governmental Organisation: 48; Legal Hundred: 29-30

<sup>294</sup> Ukrainian Non-Governmental Organisation: 48

<sup>295</sup> Legal Hundred: 29

<sup>296</sup> The Guardian, *Yes, tiredness is ravaging the Ukrainian soldiers I meet. But they never think of giving up*, 15 December 2023, [url](#)

service, must complete a course of basic military training lasting at least one month.<sup>297</sup> There are examples of military servicemen who have been sent to the frontline with only one month of training.<sup>298</sup>

Legal Hundred noted that people are usually trained for two-three months.<sup>299</sup> There are many reports of complaints over insufficient military training.<sup>300</sup>

Interviewed for an article by the Washington Post, a Ukrainian battalion commander described how ill-trained troops are weakening the position of Ukraine.<sup>301</sup>

A Ukrainian NGO noted that selected servicemen are sent abroad to e.g. United Kingdom or the Netherlands for more specific training which can last five to 10 months.<sup>302</sup> Reportedly, over 100,000 Ukrainian servicemen have undergone training in more than 30 partner countries in less than two years.<sup>303</sup>

### *1.6.6 Conditions during quartering and equipment*

There is a detailed order by the Minister of Defence on the approval of the procedure for equipping the Armed Forces of Ukraine with tableware, equipment and inventory for wartime.<sup>304</sup> In contrast, a humanitarian NGO stated that there are no minimum standards for conditions during service.<sup>305</sup> Legal Hundred referred to some individuals complaining and calling conditions horrible while other persons found the conditions to be as expected.<sup>306</sup>

An investigative journalist and Legal Hundred noted that during mobilisation training before being stationed, servicemen are quartered in military bases with basic living conditions.<sup>307</sup> Quartering conditions depend on the area where servicemen are stationed; in some locations, people are quartered in old apartment buildings, whereas in other locations quartering is in trenches and forests. According to Legal Hundred, this is also a matter of safety.<sup>308</sup>

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<sup>297</sup> Legal Hundred: 31; BBC, *Ukraine war: The men who don't want to fight*, 22 August, [url](#)

<sup>298</sup> BBC, *Ukraine war: The men who don't want to fight*, 22 August, [url](#)

<sup>299</sup> Ukrainian Non-Governmental Organisation: 45

<sup>300</sup> Legal hundred: 31; The Washington Post, *Ukraine short of skilled troops and munitions as losses, pessimism grow*, 13 March 2023, [url](#); BBC, *Ukraine war: The men who don't want to fight*, 22 August, [url](#)

<sup>301</sup> The Washington Post, *Ukraine short of skilled troops and munitions as losses, pessimism grow*, 13 March 2023, [url](#); BBC, *Ukraine war: The men who don't want to fight*, 22 August, [url](#)

<sup>302</sup> Ukrainian Non-Governmental Organisation: 45

<sup>303</sup> The Kyiv Independent, *General Staff: Over 100,000 Ukrainian soldiers trained in partner countries*, 22 November 2023, [url](#)

<sup>304</sup> Investigative journalist: 19; Ukraine, Ministry of Defence, *No. 718, Міністерство Оборони України, Наказ Міністра Оборони України [Order about the dining and kitchen equipment dishes, equipment and inventory of the Armed Forces of Ukraine for wartime]*, 30 October 2012, [https://www.mil.gov.ua/content/other/MOU718\\_2012.pdf](https://www.mil.gov.ua/content/other/MOU718_2012.pdf) [copy link into browser]

<sup>305</sup> An international humanitarian organisation with headquarter in EU: 23

<sup>306</sup> Legal Hundred: 32

<sup>307</sup> Investigative journalist: 19; Legal Hundred: 32

<sup>308</sup> Legal Hundred: 32

Many military servicemen do not have the equipment needed;<sup>309</sup> weapons, ammunition and uniforms are insufficient.<sup>310</sup> At the beginning of the full-scale invasion, servicemen were provided with uniforms and equipment,<sup>311</sup> but in November 2023 sources stated that such items must often be acquired at their own expense with the support of donations.<sup>312</sup> Reportedly, there are many announcements on social media to collect money for military equipment.<sup>313</sup>

Legal Hundred has often received complaints from servicemen, who have been physically abused by their commanders during service, although the problem is not systematic. The abuse mostly happens towards persons, who are generally stigmatised in society, e.g. people from the LGBT community and other nationalities, e.g. Romas. However, the source is not of the opinion that there is systematic discrimination against minorities in the military. To the source's knowledge, there is no discrimination in the military against people, who are perceived as pro-Russian because of their place of origin or dual citizenship, although it exists between civilians.<sup>314</sup> For information on general treatment of pro-Russian Ukrainians, see [section 3.5](#).

It is possible to hand in a complaint of abuse to a higher commander or the military police, but in most cases, an investigation is not initiated due to a lack of willingness from the commanders.<sup>315</sup> Furthermore, Legal Hundred noted that the information in the complaint would be shared with the commander in question by the higher commander, making him aware that someone from his battalion has initiated a complaint case against him.<sup>316</sup>

## 2. Conscientious objection and alternative service

During martial law, there is no legal basis for exemption from mobilisation based on conscientious objection. Conscientious objection is not mentioned as an option under the provision on exemption for mobilisation.<sup>317</sup> The legal right to opt for conscientious objection applies only in peacetime and only for selected religious reasons.<sup>318</sup> The religious communities that are granted the right to conscientious objection are limited to members of a few religious communities, including the Adventists, Baptists, Jehovah's Witnesses, the Pentecostal Movement, and

<sup>309</sup> An international humanitarian organisation with headquarter in EU: 24; Legal Hundred: 32

<sup>310</sup> Legal Hundred: 32

<sup>311</sup> An international humanitarian organisation with headquarter in EU: 24

<sup>312</sup> An international humanitarian organisation with headquarter in EU: 24; Legal Hundred: 32

<sup>313</sup> An international humanitarian organisation with headquarter in EU: 24

<sup>314</sup> Legal Hundred: 33

<sup>315</sup> Legal Hundred: 34

<sup>316</sup> Legal Hundred: 34

<sup>317</sup> Ukraine, Verkhovna Rada, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Training and Mobilisation]*, 1993, [url](#), Article 23; UHHRU: 2; Ukraine, Verkhovna Rada, *Constitution of Ukraine*, 1996, No. 30, Article 141, [url](#), Article 64; International organisation in Kyiv: 3

<sup>318</sup> Ukraine, Verkhovna Rada, *Constitution of Ukraine*, 1996, No. 30, Article 141, [url](#), Article 35, Section 4; Roskoshnyi, Illia, *The Right to Conscientious Objection Under Martial Law in Ukraine*, 8 August 2023, [url](#), p. 1

International Society for Krishna Consciousness etc. (see the full list of religious organisations whose beliefs do not allow the use of weapons via the link in footnote).<sup>319</sup>

There is a special law regulating alternative non-military service, but the law only applies in peace time.<sup>320</sup> Pursuant to the special law on alternative service, the right to alternative service can be set in separate restrictions to the general liability for mobilisation in the legislative framework governing mobilisation during martial law.<sup>321</sup> However, no restrictions has been set.<sup>322</sup> In practice, during martial law, the right to conscientious objection and alternative service is not recognised;<sup>323</sup> refusing to serve referencing conscientious objections is punished pursuant to the criminal code, as the person would be considered a draft evader.<sup>324</sup>

Only a few cases of conscientious objectors present themselves in public, as they would risk more action from the state, such as placement in pre-trial detention for several months and up to one year instead of staying in home arrest.<sup>325</sup> Only in a few cases has information on court cases against named conscientious objectors appeared in public sources. At the time of writing this report, approximately 15 names of persons convicted as conscientious objectors were identified.<sup>326</sup> The NGO Forum 18 listed seven named cases of conscientious objectors who were all convicted under the Criminal Code Article 336 for refusing call-up for military service during mobilisation (The same article is used for prosecution for draft evasion – see [chapter 3](#)).<sup>327</sup>

The minimum and maximum penalty for violating Article 336 is imprisonment for a term of two to five years.<sup>328</sup> In practice, in 10 different cases of prosecution, the sentences given to conscientious objectors in Ukrainian courts ranged from one to five years of imprisonment.<sup>329</sup> Some objectors have received suspended sentences.<sup>330</sup> In some of the verdicts, the defendant stated that they

<sup>319</sup> Ukraine, Verkhovna Rada, *Про затвердження нормативно-правових актів щодо застосування Закону України "Про альтернативну (невійськову) службу"*, [On Approval of Normative Legal Acts on the Application of the Law of Ukraine "On Alternative (Non-Military) Service"], 10 November, 1999, [url](#); OHCHR, *OHCHR call for inputs on the topic of conscientious objection*, 21 March 2022, [url](#), p. 2; International organisation: 4

<sup>320</sup> International organisation based in Kyiv: 3

<sup>321</sup> Ukraine, Verkhovna Rada, *Про затвердження нормативно-правових актів щодо застосування Закону України "Про альтернативну (невійськову) службу"*, [On Approval of Normative Legal Acts on the Application of the Law of Ukraine "On Alternative (Non-Military) Service"], 10 November, 1999, [url](#), Article 1

<sup>322</sup> International organisation based in Kyiv: 3

<sup>323</sup> Roskoshnyi, Illia, *The Right to Conscientious Objection Under Martial Law in Ukraine*, 8 August 2023, [url](#), p.2; International organisation based in Kyiv: 3-4; Ukrainian Non-governmental Organisation: 53; Pryncyp: 8; UHHRU: 2; Investigative Journalist: 11; NYT, *Belief or Betrayal? Ukraine's Conscientious Objectors Face Hostility*, 18 August 2023, [url](#)

<sup>324</sup> Ukrainian Non-Governmental Organisation: 54; Investigative Journalist: 11

<sup>325</sup> UHHRU: 7

<sup>326</sup> Roskoshnyi, Illia, *The Right to Conscientious Objection Under Martial Law in Ukraine*, 8 August 2023, [url](#), pp.2-4; Forum 18: UKRAINE: Conscientious objector now jailed, 27 February 2023, [url](#); European Bureau for Conscientious Objection, *Conscientious Objection to Military Service in Europe*, 12 May 2023, [url](#), pp. 87-88; UHHRU: 4

<sup>327</sup> Ukraine, Verkhovna Rada, *The Criminal Code*, Article 336, [url](#); Forum 18: UKRAINE: Conscientious objector now jailed, 27 February 2023, [url](#); Ukrainian Non-governmental Organisation: 54; Investigative Journalist: 11;

<sup>328</sup> Ukraine, Verkhovna Rada, *The Criminal Code*, Article 336, [url](#)

<sup>329</sup> Roskoshnyi, Illia, *The Right to Conscientious Objection Under Martial Law in Ukraine*, 8 August 2023, [url](#), p.2; Forum 18: UKRAINE: Conscientious objector now jailed, 27 February 2023, [url](#); NYT, *Belief or Betrayal? Ukraine's Conscientious Objectors Face Hostility*, 18 August 2023, [url](#)

<sup>330</sup> NYT, *Belief or Betrayal? Ukraine's Conscientious Objectors Face Hostility*, 18 August 2023, [url](#)



based their objection to military service on their Christian faith, while in other verdicts the defendant based the objection on refusing to kill people.<sup>331</sup> For legal guarantees, please refer to [section 1.4.3](#).

With regard to the scope of individuals who filed for classification as a conscientious objector, attention should be paid to a letter from the Ministry of Defence dated 21 August 2022 to the recruitment offices, stating that since regular military service in Ukraine is suspended, alternative service is not applicable.<sup>332</sup>

In an annual survey by the Ukrainian Pacifist Movement, numbers of conscientious objectors conducting alternative service distributed on the different Ukrainian oblasts are listed. According to the survey, there has been a decrease in the numbers: 617 conscientious objectors conducted alternative service in Ukraine in 2022, compared to 1,659 in 2021.<sup>333</sup> Any newer figures could not be found within the deadline of this report.

The overall public atmosphere towards conscientious objectors should be seen in the light of overwhelming public support for the armed forces. According to a survey, a total of 93.1 percent of the participants responded that they either rather trust or fully trust the armed forces.<sup>334</sup> For further information on societal attitudes towards draft evaders and deserters, refer to [section 3.3](#).

## 3. Draft evasion and desertion

### 3.1 Legislation on punishment for draft evasion and desertion

Evasion from military service can be considered either an administrative and criminal offence. The level of punishment for evading military service depends on at which stage a person fails to fulfil his or her duties as described below.<sup>335</sup>

The failure of an individual liable for military service to report to the relevant TRC without a valid reason, when the person has received a summons, is considered an administrative offence and

<sup>331</sup> Forum 18: UKRAINE: Conscientious objector now jailed, 27 February 2023, [url](#); European Bureau for Conscientious Objection, *Conscientious Objection to Military Service in Europe*, 12 May 2023, [url](#), p.87-88; NYT, *Belief or Betrayal? Ukraine's Conscientious Objectors Face Hostility*, 18 August 2023, [url](#)

<sup>332</sup> International Support of Conscientious Objectors and Deserters, *Ukraine suspended right to conscientious objection to military service*, 5 September 2022, [url](#) [scanned copy of letter and translation into English, [url](#)]

<sup>333</sup> European Bureau for Conscientious Objection, *Annual Report Conscientious Objection to Military Service in Europe 2022/23*, [url](#), p. 85 - (the survey lacked updated information from Volyn, Mykolaiv, Poltava, Rivne, Kherson and Cherkasy Oblasts)

<sup>334</sup> Razumkov, *Citizens' assessment of the situation in the country. Trust in social institutions, politicians, officials and public figures. Attitudes towards holding national elections in Ukraine until the end of the war*, 11 October 2023, [url](#); Visit Ukraine, *Elections in time of war and trust in Zelenskyy: how many Ukrainians support the President of Ukraine now?*, 15 October 2023, [url](#); International organization: 6; NYT, *Belief or Betrayal? Ukraine's Conscientious Objectors Face Hostility*, 18 August 2023, [url](#)

<sup>335</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 56



entails a fine of 100 to 200 non-taxable minimum incomes,<sup>336</sup> comprising 3,000 Hryvnias (72,25 EUR).<sup>337</sup>

The punishment for evasion of military service as a criminal offence is regulated in article 336 of the Criminal Code of Ukraine.<sup>338</sup> If the person evades military service after having received a mobilisation order and undergone a medical examination, the act is punishable by imprisonment for a term of three to five years.<sup>339</sup>

Desertion is subject to imprisonment for a term of five to 12 years during martial law as regulated in article 408 of the Criminal Code of Ukraine.<sup>340</sup>

Amendments to the Criminal Code of Ukraine and the Code of Ukraine on Administrative Offenses came into effect on 27 January 2023, introducing harsher punishment for deserters and evaders.<sup>341</sup> The law precludes courts from releasing the defendant prosecuted for desertion from custody until the sentence has been served.<sup>342</sup>

Pryncyp noted that the amendments have established a system of strict punishment; in order to respond to what legislators and military representatives considered to be too lenient sentences, the legislators have limited the judges' discretion to take mitigation circumstances into consideration in cases of military crimes.<sup>343</sup> For instance, persons convicted of desertion under article 408 of the Criminal Code of Ukraine cannot have their sentence suspended or receive a more lenient sentence due to individual mitigating circumstances.<sup>344</sup> Moreover, persons convicted of criminal offences during martial law cannot be released on probation.<sup>345</sup> Pryncyp further noted that there is a lack of legal guarantees in the amendments as mitigating and individual

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<sup>336</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 56; Verkhovna Rada, Кодекс України про адміністративні правопорушення [Code of Ukraine on Administrative Offenses], Document 8073, Edition dated 14.10.2023, [url](#), Article 210

<sup>337</sup> Investigative journalist: 20; Ukrainian Non-Governmental Organisation: 30

<sup>338</sup> Ukraine, Verkhovna Rada, *The Criminal Code*, Article 336, [url](#)

<sup>339</sup> Ukraine, Verkhovna Rada, *The Criminal Code*, Article 408, [url](#); Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 57; Legal Hundred: 4; Investigative Journalist: 5, 22; Ukrainian Non-Governmental Organisation: 30; NACP: 19

<sup>340</sup> Ukraine, Verkhovna Rada, *The Criminal Code*, Article 408, [url](#); Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 57; Investigative Journalist: 21

<sup>341</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 59; Pryncyp: 9; Legal Hundred: 35

<sup>342</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 59

<sup>343</sup> Pryncyp: 9-10

<sup>344</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 59; Ukrainian Non-Governmental Organisation: 56; Pryncyp: 9

<sup>345</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 59

circumstances are not taken into consideration. As a consequence, the amendments do not meet the standards of fair trial.<sup>346</sup>

For more detailed information on the amendments, please refer to the report of DIS from June 2023.<sup>347</sup>

Discharge from criminal liability and punishment due to the expiration of the statute of limitations is set to two years for a minor offence, five years for a medium grave offence, seven years for a grave offence and ten years for a special grave offence.<sup>348</sup> The statute of limitations for the offence of evasion is set to five years.<sup>349</sup>

### 3.2 Enforcement of legislation regarding draft evasion and desertion

According to a Ukrainian NGO, the amendments have been enforced in practice and have led to harsher punishments, including the removal of suspended sentences.<sup>350</sup> Pryncyp stated that as criminal cases are usually in process for two to three years, a legal practice has not yet been established and hence, it is difficult to evaluate the amendments' effect in practice. Before the adoption of the amendments on 27 January 2023, draft evaders and deserters were given suspended sentences, however, Legal Hundred had heard of examples of suspended sentences also after the law came into effect.<sup>351</sup>

All court decisions are published, but there is no collection of statistics publicly available in these cases.<sup>352</sup> Euronews reported that evaders and deserters risk years in prison after the amendments were passed in January 2023,<sup>353</sup> and draft evaders and deserters now face up to five and 12 years in prison, respectively.<sup>354</sup> It is not possible to receive a precise number of suspected draft evaders and deserters from officials.<sup>355</sup>

Pryncyp stated that court cases on draft evasion and desertion are currently limited, but desertion cases are more prevalent than draft evasion cases.<sup>356</sup>

For information on legal guarantees, refer to [section 1.4.3](#).

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<sup>346</sup> Pryncyp: 9

<sup>347</sup> Denmark, DIS, *Ukraine Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), p. 58

<sup>348</sup> Ukraine, *The Criminal Code, Article 106. Discharge from criminal liability and punishment due to the expiration of statute of limitations*, revision on 1 January 2024, [url](#)

<sup>349</sup> NACP: 19; Ukraine, Verkhovna Rada, *The Criminal Code of Ukraine, Document 2341-III, Revision on January 1, 2024*, [url](#), Article 106

<sup>350</sup> Ukrainian Non-Governmental Organisation: 56

<sup>351</sup> Legal Hundred: 35

<sup>352</sup> Legal Hundred: 36

<sup>353</sup> Euronews, *'I was afraid of it': the Ukrainians dodging conscription and fleeing the country*, 1 September 2023, [url](#)

<sup>354</sup> The Kyiv Post, *'If You Live Here, Defend Your Country' – Draft-Dodgers Spark Anger on Streets of Kyiv*, 10 September 2023, [url](#); France 24, *'Don't belong there': the Ukrainians dodging the front*, 31 August 2023, [url](#)

<sup>355</sup> France 24, *'Don't belong there': the Ukrainians dodging the front*, 31 August 2023, [url](#)

<sup>356</sup> Pryncyp: 11

### 3.3 Societal negative attitudes and reprisals against draft evaders and deserters

Sources differed in their view regarding the prevalence of societal negative attitudes and reprisals against evaders and deserters.

A Ukrainian NGO opined that reactions from community members towards evaders and deserters are limited, although there is not a general acceptance of evaders. The community members would understand the refusal to serve in the armed forces,<sup>357</sup> while Legal Hundred had not heard about negative societal reprisals and attitudes from community members. In the beginning of the full-scale invasion, many men liable for military service were imprisoned for refusing to join the army but were released and joined the army, after which they were still respected in the community. The community would usually not have information on people, who have deserted from military service.<sup>358</sup>

Differing from this, three other sources assessed that draft evaders are met with negative reactions from society.<sup>359</sup> An investigative journalist stated that evaders are verbally insulted and considered cowards by society,<sup>360</sup> while a humanitarian NGO assessed that negative attitudes are prevalent among both ordinary citizens and local officials, and that journalists and bloggers tend to criticise military draft evaders from time to time in the media. In western Ukraine, there is a higher degree of negative comments and attitudes from locals towards draft evaders and deserters.<sup>361</sup> According to Pryncyp, Ukrainian society generally considers evasion from mobilisation to be unfair, but evaders do not speak out in public about their evasion due to fear of negative societal reactions against themselves and their family members.<sup>362</sup> Pryncyp opined that someone, who moved abroad to avoid mobilisation, would be met with negative reactions from the society upon return.<sup>363</sup>

It was reported in the media that the picture of the societal attitudes towards draft evaders and deserters is ambiguous, although there are examples of anger and resentment on social media towards persons avoiding mobilisation.<sup>364</sup>

In general, there was very limited information among the interviewed sources on the possible societal negative consequences against relatives of military evaders and deserters.

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<sup>357</sup> Ukrainian non-governmental organisation: 58

<sup>358</sup> Legal Hundred: 37

<sup>359</sup> Investigative Journalist: 15; An International Humanitarian Organisation with headquarter in EU: 32; Pryncyp: 13

<sup>360</sup> Investigative Journalist: 15

<sup>361</sup> An international humanitarian organisation with headquarter in EU: 32

<sup>362</sup> Pryncyp: 13

<sup>363</sup> Pryncyp: 13

<sup>364</sup> NYT, *Ukraine's Draft Dodgers Face Guilt, Shame and Reproach*, 11 April 2022, [Ukraine's Draft Dodgers Face Guilt, Shame and Reproach - The New York Times \(nytimes.com\)](https://www.nytimes.com/2022/04/11/ukraine-draft-dodgers-guilt-shame-reproach.html)[copy link into browser]

### 3.4 Legal consequences for draft evaders and deserters returning from abroad

Ukrainians residing abroad are subject to mobilisation if they have been summoned to serve (see [section 1.2.3](#)) Sources differed in their view on whether Ukrainians residing abroad would be punished for draft evasion upon return.

A humanitarian NGO had not heard of draft evaders returning from abroad being met with consequences upon return, as they have not been properly summoned for mobilisation by signing a notice e.g. through an embassy,<sup>365</sup> however, there could be risks when they return to Ukraine, either during or after martial law.<sup>366</sup> Regarding punishment of deserters returning from abroad, the source assessed that they will be presented with criminal liability upon their return.<sup>367</sup>

According to UHHRU, draft evaders will not be punished upon return at a later stage despite having received the summons letter.<sup>368</sup>

Media reports noted that it is not clear whether those who escaped mobilisation and choose to return to Ukraine in the future face retrospective punishment, although a parliamentary representative voiced that it would not be in the national interest.<sup>369</sup> If the prosecutor can prove in court that a person illegally crossed the international border with the purpose of evading mobilisation, the perpetrator can be punished with imprisonment for a term of three to five years.<sup>370</sup>

Pryncyp stated that there had been cases of people, who had been apprehended, trying to evade mobilisation and move abroad, and who, subsequently, faced criminal charges.<sup>371</sup>

Pryncyp and an investigative journalist noted that someone, who has moved abroad to avoid mobilisation, would probably be met with negative reactions from society upon return.<sup>372</sup> There are examples of celebrities, who moved abroad to avoid mobilisation and have been met with negative reactions.<sup>373</sup>

The National Agency for the Corruption Prevention (NACP) opined that although law enforcement bodies ought to investigate cases regarding persons who have falsified a document to travel abroad, there would not be sufficient capacity to investigate such cases due to a backlog of

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<sup>365</sup> An international humanitarian organisation with headquarter in EU: 33

<sup>366</sup> An international humanitarian organisation with headquarter in EU: 11

<sup>367</sup> An international humanitarian organisation with headquarter in EU: 33

<sup>368</sup> UHHRU: 17

<sup>369</sup> BBC News, *Swimming rivers and faking illness to escape Ukraine's draft*, 17 November 2023, [url](#)

<sup>370</sup> Visit Ukraine, *Fines, jail or the front line: what men who went abroad illegally face*, 18 April 2023, [url](#)

<sup>371</sup> Pryncyp: 12

<sup>372</sup> Investigative Journalist: 15; Pryncyp: 13

<sup>373</sup> Pryncyp: 13

thousands of cases. Moreover, the cases pertaining to crossing the border illegally would not be prioritised given the high number of criminal cases related to war crimes.<sup>374</sup>

### 3.5 Consequences for Ukrainians with a pro-Russian mind-set

Overall, the sources did not have information on additional consequences for military evaders and deserters with a pro-Russian mind-set as requested in the Terms of Reference ([ToR – annex 2](#)).

However, three sources agreed that Ukrainians, in general, demonstrating a clear sympathy with the Russian Federation and its actions in Ukraine as well as expressing pro-Russian rhetoric face severe repercussions by Ukrainian authorities.<sup>375</sup> It is criminalised to support the aggressor state. The authorities are actively prosecuting people for pro-Russian activities pursuant to the Criminal Code of Ukraine,<sup>376</sup> and Ukrainian nationals have been detained under charges of collaboration with the Russian Federation.<sup>377</sup>

The Criminal Code prescribes up to five years of imprisonment for posting pro-Russian or pro-invasion social media content, but in many cases, the offenders are sentenced to suspended imprisonment and prohibition from taking up positions in public offices.<sup>378</sup> On the other hand, there are cases of Ukrainian nationals who are held for long periods in pre-trial detention for reposting pro-invasion social media content.<sup>379</sup> An international organisation based in Kyiv noted that overall, disproportionate punishments are applied to the various provisions of the Criminal Code relating to national security and collaboration with the Russian Federation.<sup>380</sup>

As of December 2023, there are over 6,000 preliminary investigations and approximately 1,000 prosecutions regarding collaboration with the Russian Federation. The penalties range from fines to 15 years in prison.<sup>381</sup> Examples of actions leading to prosecutions include the act of making statements or arrangements in public in support of the aggressor state, being voluntarily employed or having a position with the occupation authority, voluntarily enlist or provide support to the Russian Armed Forces or conduct economic activities in cooperation with the Russian Federation.<sup>382</sup>

A Ukrainian NGO noted that the reactions from the authorities and the communities depend on the behaviour of the person with an assumed pro-Russian mind-set. The person must actively exhibit pro-Russian sympathy in order to be prosecuted. The source did not believe that the

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<sup>374</sup> NACP: 19

<sup>375</sup> Ukrainian Non-Governmental Organisation: 59; An international humanitarian organisation with headquarter in EU: 34; International Organisation based in Kyiv: 21

<sup>376</sup> Ukrainian Non-Governmental Organisation: 59; International Organisation based in Kyiv: 21; Ukraine, *The Criminal Code*, revision on 1 January 2024, [url](#)

<sup>377</sup> International Organisation based in Kyiv: 21

<sup>378</sup> International Organisation based in Kyiv: 21; Ukraine, *The Criminal Code*, revision on 1 January 2024, [url](#)

<sup>379</sup> International Organisation based in Kyiv: 21

<sup>380</sup> International Organisation based in Kyiv: 21

<sup>381</sup> Open Democracy, *The problems with Ukraine's wartime collaboration law*, 16 August 2023, [url](#)

<sup>382</sup> Migrationsverket, *Landinformation: Ukraina - Kollaboration med ryska ockupationsmyndigheter*, 22 December 2023, [url](#)

assumption of a person being pro-Russian alone would lead to any repercussions.<sup>383</sup> A humanitarian NGO opined that any pro-Russian rhetoric is heavily criticised and can lead to the interest of the authorities.<sup>384</sup>

An international organisation emphasised that many Ukrainian nationals have family relations or friendships in Russia and do not face prosecutions for this.<sup>385</sup>

## 4. Corruption

Corruption is widespread in many sectors in Ukraine,<sup>386</sup> and most sources agreed that corruption is prevalent in the mobilisation procedures.<sup>387</sup> The corruption is widespread at all levels of the military system, and thousands of people have been paying bribes to avoid mobilisation.<sup>388</sup>

Conversely, a Ukrainian NGO noted that there is corruption in the mobilisation procedures, but that it is not widespread.<sup>389</sup> The NACP assessed that the city of Odesa stands out as being more corrupt and opined that it probably relates to the high degree of Russian influence in the city. However, the NACP noted that corruption is also prevalent in other groups as well.<sup>390</sup>

Normally, corruption issues in the military are not being discussed in civil society, as it would be perceived negatively.<sup>391</sup> The reason for this is that the military enjoys a high degree of support in the population; most people have family members who have joined the army and therefore support the military.<sup>392</sup>

The problems of corruption have been conferred at highest level, and in the autumn of 2023, President Zelenskyy several times addressed the particular problems of the high numbers of people who are avoiding mobilisation.<sup>393</sup>

<sup>383</sup> Ukrainian Non-Governmental Organisation: 61

<sup>384</sup> An International Humanitarian Organisation with headquarter in EU: 34

<sup>385</sup> International Organisation based in Kyiv: 20

<sup>386</sup> Landinfo, *Temanotat: Ukraina Sivilattester, identitets- og reisedokumenter*, 25 January 2024, [url](#), pp. 28; FT, *Ukraine cracks down on corrupt army recruiters*, 11 August 2023, [url](#); Le Monde, *Ukraine: Corruption can undermine the trust of allies and reawaken divisions in the country*, 1 February 2023, [url](#); Reuters, *Zelenskiy says change needed in Ukraine's mobilisation system*, 1 December 2023, [url](#); BBC, *Ukraine fires military conscription officials for taking bribes*, 11 August 2023, [url](#)

<sup>387</sup> UHHRU: 26; An international humanitarian organisation with headquarter in EU: 29; Pryncyp: 14-15; International Organisation working in Ukraine: 14; Investigative Journalist: 3; NACP 3-17; Legal Hundred: 38

<sup>388</sup> Pryncyp: 14; An international humanitarian organisation with headquarter in EU: 29; Investigative Journalist: 3; UHHRU: 26; International Organisation working in Ukraine/Kyiv: 14

<sup>389</sup> Ukrainian Non-Governmental Organisation: 65

<sup>390</sup> NACP: 17

<sup>391</sup> Pryncyp: 16

<sup>392</sup> Pryncyp: 16; Visit Ukraine, *Elections in time of war and trust in Zelenskyy: how many Ukrainians support the President of Ukraine now?*, 15 October 2023, [url](#)

<sup>393</sup> International Organisation working in Ukraine: 14; NACP: 16; UHHRU: 26; FT, *Ukraine cracks down on corrupt army recruiters*, 11 August 2023, [url](#); Reuters, *Zelenskiy says change needed in Ukraine's mobilisation system*, 1 December 2023, [url](#); BBC, *Ukraine fires military conscription officials for taking bribes*, 11 August 2023, [url](#)

The issues of corruption have resulted in two major analyses from the NACP. The first report<sup>394</sup> contained an analysis of illegal ways to circumvent the travel ban that has been in place for men between 18 and 60 years who are eligible for mobilisation.<sup>395</sup> The second report<sup>396</sup> contained an analysis on corruption in the MMCs – for more detailed information on corruption in the MMCs, see [section 4.1](#).

The primary profiles of people, who are circumventing mobilisation through corruption, are wealthy people who can afford to pay high sums of money.<sup>397</sup> For instance, the NACP noted that after the publication of their report on methods to circumvent the travel ban in October 2022, the prices for corruption increased significantly.<sup>398</sup>

The perception of the state sectors as corrupt is reflected in a survey conducted in 2023 by the Ukrainian Razumkov Centre. According to the survey, as cited by Landinfo 2024, 70 percent of the respondent distrust courts (the judicial system as a whole) and 55 percent distrust the National Agency on Corruption Prevention (NACP) etc.<sup>399</sup>

## 4.1. Corruption in the Military Medical Commissions

The National Security Council of Ukraine tasked the NACP to draft a report on corruption in the MMCs. The main reason for initiating the drafting of the report is that, according to the NACP and other sources, the most prevalent way to circumvent mobilisation is by paying someone to forge documents at the MMCs.<sup>400</sup> The NACP report contains a survey conducted by the Ukrainian NGO, Legal Hundred, which states that from 24 February 2022 to 1 August 2023, Legal Hundred received 4,432 complaints about the MMCs.<sup>401</sup> Furthermore, in August 2023, President Zelenskyy noted that the National Security Council of Ukraine received statistics on the MMC that evidenced widespread corruption.<sup>402</sup>

According to the NACP report, in August 2023, law enforcement agencies conducted investigations in a number of MMCs in Vinnytsia, Cherkasy and Kyiv regions, and the investigations identified 388

<sup>394</sup> Ukraine, NACP, *Корупційні схеми та ризики під час виїзду з України в умовах воєнного стану (Corruption schemes and risks related to leaving the country during martial law)*, October 2022, [url](#)

<sup>395</sup> For more detailed information see Denmark, DIS, *Ukraine; Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, pp. 40-51, [url](#)

<sup>396</sup> Ukraine, National Agency on Corruption Prevention of Ukraine, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#)

<sup>397</sup> NACP: 17; Прынсуп: 7

<sup>398</sup> NACP: 17

<sup>399</sup> Landinfo, *Temanotat: Ukraina Sivilattester, identitets- og reisedokumenter*, 25 January 2024, [url](#), p. 29; Razumkov Centre, *Citizens' assessment of the situation in the country. Trust in social institutes, politicians, officials and public figures* (December, 2023), 28 December 2023, [url](#) [Ukrainian language]

<sup>400</sup> NACP: 5; An international humanitarian organisation with headquarter in EU: 30; Ukrainian Non-Governmental Organisation: 68; Legal Hundred: 38; Investigative Journalist: 3-4

<sup>401</sup> Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, , [url](#), p. 8; Legal Hundred: 38

<sup>402</sup> Kyiv Post, *'Corrupt Decisions' – Kyiv to Review Medical Exemptions from Army Duty*, 31 August 2023, [url](#)



employees whose decisions in the MMCs could be questioned. Subsequently, medical documentation confirming unlawful decisions was seized.<sup>403</sup>

The NACP report identifies 20 corruption risks within different aspects of the work of the MMCs, such as the formation, the activities, the appeal process, the use of intermediaries, and the lack of digitalisation.<sup>404</sup>

The information in the report at hand on corruption in the MMCs is mainly based on information shared by the NACP in the mentioned report from December 2023 as well as in a meeting in Kyiv, October 2023. The information provided by the NACP can be divided into the following themes: Unclear legal regulation, corruption among members of the MMCs and poor technical equipment, and lack of digitalisation.

#### 4.1.1. Unclear legal regulation

The system of the MMCs was not ready for the needs and challenges of wartime. The legislation, that prescribed the activities, was vague and outdated, and the work of the MMCs has not complied with a modern-day situation during martial law.<sup>405</sup> According to the NACP, the Cabinet of Ministers failed to outline the legal framework for the functioning of the MMCs, for instance in the draft of Order 402,<sup>406</sup> which regulates how to conduct the military medical examinations.<sup>407</sup>

After the full-scale invasion, the numbers of MMCs doubled, and doctors and other staff were brought in from the municipalities whereas previously the MMCs were formed within the context of state medical institutions.<sup>408</sup> Furthermore, the changes in the number of MMCs increased the risk of corruption cases, as control mechanisms simultaneously weakened.<sup>409</sup>

#### 4.1.2 Corruption among members of the MMCs

The decision to declare an individual unfit for military service and to exclude that person from the military register is within the discretionary powers of the MMCs. These powers and the lack of clear regulation of the activities of the MMCs have become the biggest corruption factor in the MMCs. There has been a constant interaction between the TRCs and the MMCs, which has led to

<sup>403</sup> Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), p. 10

<sup>404</sup> Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), pp. 14-67; NACP: 5-10

<sup>405</sup> NACP: 6; Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), p. 14

<sup>406</sup> Ukraine, MoD, *Наказ № 402 Положення про військово-лікарську експертизу в Збройних Силах України [Order No. 402 Regulations on military medical examination in the Armed Forces of Ukraine]*, 14 August 2023, [url](#)

<sup>407</sup> Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), p. 15

<sup>408</sup> NACP: 6; Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), pp. 16-20, 23-24

<sup>409</sup> NACP: 6

strong official and personal ties. In the context of the increased demand for illegal documents required to travel abroad and avoid mobilisation, this has contributed to the spread of corruption offences and the development of sustainable corruption schemes.<sup>410</sup>

Furthermore, an individual liable for military service can be granted a deferment from mobilisation for health reasons depending on the duration of treatment. Upon the expiry of the deferment, the person is examined by the MMCs to determine the medical fitness for military service. There are no procedures for making a decision on postponement, hence it is solely the subjective medical assessment of the MMCs that forms a basis for continued deferment, which contributes to the prevalence of corruption at the MMCs.<sup>411</sup>

There have been identified several cases of corruption among the heads as well as among individual members of the commissions, who have abused their positions to implement corrupt schemes out of loopholes in the vague and outdated legislation. Furthermore, the MMCs have been accepting certain external notes, such as doctor reports from other medical institutions, without conducting proper verification, which has increased the risk of submitting falsified documents.<sup>412</sup>

In practice, it has been difficult for law enforcement agencies to identify heads of the MMCs as perpetrators. Nevertheless, court cases have revealed that the use of intermediaries, such as low-profile members or secretaries, have been prevalent, although there also are examples of prosecution of members of the commission.<sup>413</sup>

#### 4.1.3 Poor technical equipment and lack of digitalisation

The MMCs have, in general, poor technical equipment, which has increased the risk of corruption with the continued use of paperwork. For instance, there has been formulated a need for 1,000 laptops to the MMCs, which has not been met. Many MMCs lack local connection to the internet, which has made it impossible to connect to the national, electronic health care system and carry out electronic document management. The MMCs are still working with paper document circulation, which creates favourable conditions for corruption because it makes it easier to falsify documents when there is no electronic trail. Furthermore, the MMCs do not have access to the electronic medical history of persons liable for military service, which also makes the process of

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<sup>410</sup> Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), p. 37

<sup>411</sup> Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), p. 41

<sup>412</sup> NACP: 7; Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), pp. 38-40

<sup>413</sup> NACP: 8

falsifications of documents and conclusions easier, as the verification of the authenticity is thus significantly complicated.<sup>414</sup>

There is no insight for the person summoned for mobilisation and medical check or for outsiders of what the MMCs have written in their medical assessments, thus the conclusions on eligibility cannot be monitored or challenged. The conclusions are forwarded directly from the MMCs to the military commanders.<sup>415</sup> Furthermore, the MMCs do not look at previous health records during the recruitment procedures but are conducting their own health assessment, in which corruption is quite prevalent. The issued documents are real; however, the premises are false.<sup>416</sup>

There are unregulated procedures for requirements of attaching medical documents to the application for exemption, which allows the MMCs to disregard such documents enabling biased conclusions. Furthermore, it complicates an appeal against the decisions of the MMCs because applicants are unable to prove that they provided medical documentation that indicated the presence of a disease.<sup>417</sup>

Many of Ukraine's government services have come a long way in the implementation of governance procedures; however, the activities of the MMCs have not been digitalised, which muddles the control and identification of corruption cases. No action has been taken to initiate digitalisation, according to the NACP, apparently because there is an interest in the top of the government in keeping the process on paper in order to continue the present corrupt practice.<sup>418</sup>

On an overall level, the NACP noted that the corruption in the MMCs is a combination of being systemic because of unclear rules, but most cases are a result of individual activities.<sup>419</sup>

## 4.2. Other ways to circumvent mobilisation

Besides the corruption in the MMCs, the NACP identified four typical variants of corruption and evasion methods:

- I) A person can be exempted from mobilisation if any close family members have been classified with disabilities or serious health conditions.<sup>420</sup> The NACP has identified several corruption cases by fabrication of medical documents through the MMCs.<sup>421</sup>

<sup>414</sup> NACP: 9; Прынсуп: 15; Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), pp. 64-65

<sup>415</sup> Прынсуп: 15

<sup>416</sup> Investigative Journalist: 4; NACP: 9

<sup>417</sup> Ukraine, NACP, *Корупційні Ризики у діяльності військово-лікарських комісій Збройних Сил України (Corruption risks in the activities of the Military Medical Commissions of the Armed Forces of Ukraine)*, December 2023, [url](#), p. 62

<sup>418</sup> NACP: 10

<sup>419</sup> NACP: 11

<sup>420</sup> NACP: 14; An international humanitarian organisation with headquarter in EU: 30; Ukrainian Non-Governmental Organisation: 66; Investigative Journalist: 3; WSJ, *A Year Into War, Ukraine Faces Challenges Mobilizing Troops*, 23 March 2023, [url](#)

<sup>421</sup> NACP: 14

- II) The NACP has identified cases of fictitious marriages with women who have either a disability or three or more children allowing for exemption of the person liable for mobilisation.<sup>422</sup>
- III) There have also been cases of fictitious employment or voluntary work in companies or organisations that have been categorised as strategically important and thus its employees are exempted from mobilisation.<sup>423</sup>
- IV) Finally, among the most common variants of circumventing mobilisation is fictitious enlistment as a student to a higher educational institution.<sup>424</sup>

Media reports also demonstrated other types of corruption, such as buying a passenger seat alongside a long-haul truck driver leaving the country or acquiring documents listing a person as a volunteer aid worker allowing for exemptions from mobilisation.<sup>425</sup>

For information on ways to circumvent the travel ban, refer to the DIS report from June 2023.<sup>426</sup>

### 4.3. Documents

Both the NACP and a Ukrainian NGO stated that military documents are usually not forged.<sup>427</sup> According to the NACP, it is not possible to forge military tickets.<sup>428</sup>

However, other documents have been forged in some cases. For instance, the temporary certificate of registration, which is a piece of paper.<sup>429</sup>

Other types of documents that have been forged include medical documents from doctors, or registration as volunteers for NGOs transporting military equipment.<sup>430</sup>

### 4.4. Regional differences

Most sources consulted in this report agreed that there were no regional differences in the level of corruption to avoid mobilisation.<sup>431</sup> Corruption is pertinent in all regions of Ukraine.<sup>432</sup>

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<sup>422</sup> NACP: 14; The Washington Post, *Ukraine cracks down on draft-dodging as it struggles to find troops*, 8 December 2023, [url](#)

<sup>423</sup> NACP: 14; Investigative Journalist: 3; The Washington Post, *Ukraine cracks down on draft-dodging as it struggles to find troops*, 8 December 2023, [url](#)

<sup>424</sup> NACP: 14; WSJ, *A Year Into War, Ukraine Faces Challenges Mobilizing Troops*, 23 March 2023, [url](#)

<sup>425</sup> Investigative Journalist: 3; WSJ, *A Year Into War, Ukraine Faces Challenges Mobilizing Troops*, 23 March 2023, [url](#); The Washington Post, *Ukraine cracks down on draft-dodging as it struggles to find troops*, 8 December 2023, [url](#)

<sup>426</sup> Denmark, DIS, *Ukraine; Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), pp. 40-51

<sup>427</sup> NACP: 15; Ukrainian Non-Governmental Organisation: 67

<sup>428</sup> NACP: 15

<sup>429</sup> NACP: 15

<sup>430</sup> Investigative Journalist: 3; Ukrainian Non-Governmental Organisation: 68; An International Humanitarian organisation with headquarter in EU: 30

<sup>431</sup> NACP: 17; Ukrainian Non-Governmental Organisation: 69; An international humanitarian organisation with headquarter in EU: 31; Legal Hundred: 38; Investigative Journalist: 5

<sup>432</sup> An international humanitarian organisation with headquarter in EU: 31

However, the NACP noted that the city of Odesa stands out as being more corrupt than other places in Ukraine, which, according to the NACP, is likely related to the high degree of Russian influence in the city.<sup>433</sup>

## 4.5. Anti-corruption measures

### 4.5.1. Punishment for corruption

When acting in a corrupt way to avoid mobilisation, there are several ways the perpetrators can be prosecuted and punished. As mentioned in [chapter 3](#) on draft evasion and desertion, a person can be prosecuted for evasion of mobilisation.<sup>434</sup>

Furthermore, depending on the methods of corruption, several articles in the Criminal Code of Ukraine regulate the prosecution of both the corrupt government official and the individual who proposes the corrupt scheme.<sup>435</sup>

For information on the forgery of documents and attempts at bribery, refer to the DIS report of June 2023.<sup>436</sup> Forgery of documents is a criminal offense, and both the person who requested and the person who issued the false or forged document are subject to criminal liability.<sup>437</sup> There are also several other articles in the Criminal Code, which are used to prosecute corrupt government officials, where the punishment ranges from a fine and up to 10 years of imprisonment depending on the gravity of the offense.<sup>438</sup>

There are no special prosecution or punishment procedures related to corruption during martial law. According to Legal Hundred, crimes related to corruption are normally punished severely, and mild sentences are not used in corruption cases.<sup>439</sup> However, the NACP opined that law enforcement agencies do not have the capacity to investigate all cases involving people who have falsified documents to travel abroad.<sup>440</sup>

### 4.5.2. Other anti-corruption measures

The NACP has liaison representatives in each government institution. However, they work independently of each other, thus not as effective as wished. Nevertheless, it was considered a positive development, when the Minister of Defence was dismissed and the NACP liaison became Deputy Minister of Defence and initiated an upgrade of an electronic register system of persons

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<sup>433</sup> NACP: 17

<sup>434</sup> Ukraine, Verkhovna Rada, *Criminal Code of Ukraine*, 2001, articles 335-337, [url](#); Investigative Journalist: 6; NACP: 19

<sup>435</sup> Investigative Journalist: 6

<sup>436</sup> Denmark, DIS, *Ukraine; Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, [url](#), pp. 54-55,

<sup>437</sup> Ukraine, Verkhovna Rada, *Criminal Code of Ukraine*, 2001, article 358, [url](#); Ukrainian Non-Governmental Organisation: 70; Investigative Journalist: 6

<sup>438</sup> Ukraine, Verkhovna Rada, *Criminal Code of Ukraine*, 2001, [url](#); Investigative Journalist: 6 ; For more information on ways to circumvent the travel ban, see also Denmark, DIS, *Ukraine; Exit rules, exemptions from military service/mobilisation during martial law, documentation, punishment of evaders and deserters from military service*, June 2023, , [url](#), pp. 54-55

<sup>439</sup> Legal Hundred: 40

<sup>440</sup> NACP: 19

liable for mobilisation, including connecting the register with other state databases. The register was a long-time recommendation of the NACP.<sup>441</sup>

When the NACP published its first report on corruption related to the travel ban, it was followed up with a submission of recommendations to the Ukrainian government in January 2023 on how to minimise the risks identified in the report. These recommendations were drafted together with the main stakeholders, such as the Ministry of Defence, the Ukrainian State Border Guard Service etc.<sup>442</sup> However, by December 2023, more than a year after the publication, the recommendations were submitted five times, but they have been blocked by the government and thus not implemented.<sup>443</sup>

In August 2023, President Zelenskyy attempted to take action against the corruption in the MMCs by replacing the heads of the military recruitment centres.<sup>444</sup> However, according to the NACP, the replacement did not result in a decrease in the corruption level within the MMCs because the problem is more rooted in the commissions than only the top management.<sup>445</sup> According to UHHRU, the replacement resulted in a drop of persons being mobilised, which probably was because the new management lacked experience and links with the local communities.<sup>446</sup> Legal Hundred noted that after the replacement, people refrained from paying bribes to the new heads of the MMCs out of fear of being prosecuted.<sup>447</sup>

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<sup>441</sup> NACP: 23

<sup>442</sup> NACP: 3

<sup>443</sup> NACP: 4

<sup>444</sup> NACP: 16; UHHRU: 26; Investigative Journalist: 4; Legal Hundred: 39

<sup>445</sup> NACP: 16

<sup>446</sup> UHHRU: 26

<sup>447</sup> Legal Hundred: 39

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## Annex 1: Meeting Notes

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### National Agency on Corruption Prevention (NACP)

Meeting, Kyiv, 31 October 2023

#### About the source

1. The National Agency on Corruption Prevention (NACP) was established in 2014 and is a central executive body with a special status. It is responsible for the development of anti-corruption policy and prevention of corruption. The NACP has, among many tasks, responsibility for analysing the situation regarding corruption in Ukraine and developing relevant anti-corruption strategies and programs for its implementation. Furthermore, it monitors compliance with the rules and legislation, coordinates and supports state and local bodies with identifying and eliminating corruption risks and implementing anti-corruption measures. NACP is not a law enforcement agency, which is why it does not conduct its own investigation and prosecution. However, it has a mandate to conduct inspections of state and local bodies.

#### Legislation

2. Overall, there has not been any major changes in the legislation regarding mobilisation since February 2023. However, there has been some minor adjustments of the existing legislation. The NACP mentioned that, for example, students attending a second or third higher education are not eligible for deferment of mobilisation anymore. However, deferment only applies for parallel educational levels. If a graduate student were accepted for Ph.D. or similar higher levels, this student would still be able to obtain a deferment.

#### Corruption in the mobilisation procedures

3. In October 2022, the NACP published the report “Corruption schemes and risks related to leaving the country during martial law” describing eight identified illegal ways (schemes) to circumvent the travel ban in Ukraine by people covered by the mobilisation. In January 2023, the report was followed up with a submission of recommendations to the government of Ukraine on how to minimise the risks identified in the report. The recommendations were drafted in agreement with all other major stakeholders, such as the Ukrainian State Border Guard Service (SBGS), the Ministry of Defence etc. and took form as several government resolutions on minimising illegal border crossings and addressing the issues of forging documents etc.
4. By December 2023, the recommendations have been submitted five times in total, but have been returned every time. The prime minister in the government blocked the recommendations and they have not been approved nor implemented up to this date; even though both the Ministry of Defence and Ministry of Health were in position to implement important parts of the recommendations.

#### Military Medical Commissions

5. The National Security Council of Ukraine tasked the NACP to draft a report on the functioning of the Military Medical Commissions (MMCs) that is set to be published by the end of 2023. The reason for the drafting of the report is that, according to the NACP, the most prevalent way to circumvent mobilisation is by paying someone to forge documents in the MMCs. Based on this report, NACP will prepare recommendations on increasing the level of transparency of the MMC's functioning. The analysis was not finished at the time of the meeting; however, the NACP was able to disclose the preliminary findings regarding corruption risks in the MMCs. In particular, the Ministry of Defence of Ukraine will be recommended to develop a new draft resolution that will regulate the activities of the MMC, taking into account the recommendations of the NACP.
6. Firstly, the legal base of the functioning of the MMCs has not been clear and the legislation that has prescribed the activities of the commissions has been vague and outdated. The MMCs have not complied with the modern day situation and the realities during martial law. There have not been proper procedures and criteria of the functioning of the MMCs. As an example, the NACP mentioned that the timeline for the medical procedure has been vague and not definite. Previously, the MMCs were formed within the context of state medical institutions. However, a couple of months after the full-scale Russian invasion, the law was changed and it was possible to create the MMCs within the context of municipal medical institutions. The change was implemented by August 2022 and since then the number of MMCs has more than doubled. The changes resulted in a significant increase of corruption cases, because the control mechanisms within the MMCs weakened both in terms of the increase in the number of commissions and because it was easier to control a fewer numbers of state institutions compared to municipal institutions.
7. Secondly, there have been several cases of corruption among the heads of the commissions as well as among individual members. In their function, they have implemented corrupt schemes by using the outdated and vague legislation to find loopholes. The MMCs have also accepted certain external notes without conducting proper verification, such as doctor reports from medical institutions, containing medical information and therefore the risk to forge the submitted documents has been high.
8. The NACP noted that it was difficult to identify the heads of the military medical commissions directly as perpetrators. However, through court decisions it is possible to observe that the perpetrators use networks of intermediaries. An intermediary could be a member of the commission or a secretary. However, there have been cases where the law enforcement authorities have prosecuted the member of the commissions.
9. Thirdly, the poor technical equipment of the MMCs has also increased the risk of corruption. According to information provided by the Ministry of Health of Ukraine, the need for 1,000 laptops for military medical facilities currently remains unmet. At the same time, there is still no local connection to the Internet in the premises where full-time MMCs are currently located, which makes it impossible for them to work with the electronic health care system and carry out electronic document management. At the same time, the continued existence of paper document circulation serves as a basis for the emergence of corruption risks due to the lack of an electronic medical information system of the MMCs. Methods of fixing access to medical documentation of the MMCs, thereby creating a favourable environment for corruption abuses during the

determination of the military fitness of persons liable for military service / serviceman by forging documents. In particular, in the absence of a connection to the electronic medical history of persons liable for military service, the process of falsification of MMCs conclusions is greatly simplified, and at the same time, the process of verifying their authenticity is significantly complicated.

10. Finally, even though Ukraine is one of the leading countries in implementation of digital governance procedures, the activities of the MMCs have not been digitalised, which has lessened the possibility to control and identify possible corruption cases. Furthermore, no action has been taken to initiate a digitalisation process in this particular part of governance, which, according to the source, is because *someone* is still interested in keeping the process on paper in order to continue present practice.
11. The NACP noted though that the corruption is a combination of being systemic because of unclear rules, but most cases have been caused by individual activities.
12. Within the study of the corruption risks in the military medical commissions (MMC), the NACP has so far formulated the following recommendations:
  - Make complete changes in the legislation regarding the MMCs, bringing it up-to-date and make it comply with a special situation such as the present martial law;
  - Secure a transparent selection of heads and members of the MMCs;
  - Secure transparency when conducting meetings by, for example, making video and audio recordings of the meetings;
  - Speed up the digitalisation of the activities of the MMCs;
  - Bring all previous medical records into account in the decision-making process of a person's eligibility to be exempted. This is not the present practice and it does not give the full medical picture, why the risk of forged documents in the MMCs persists.
13. The NACP is well aware that their recommendations on illegal border crossings were not implemented. However, they are more optimistic that these recommendations will be adopted, because the work is under the direct task of the National Security Council.

### **Other ways to circumvent mobilisation**

14. The NACP stressed that not all corruption risks to evade mobilisation were related to the drafting centres and the military medical commissions. The monitoring of the corruption schemes in Ukraine identified four typical variants of corruption and evasion methods:
  - Firstly, a person can be exempted from mobilisation if any of his close family members have been classified as a person with disabilities or serious health conditions. The decision of relieving the person from mobilisation duty is made by civil medical commissions. The NACP has identified several corruption cases by fabrication of documents through these civil medical commissions. Even the head of the pro-Russian political party in the parliament, Verkhovna Rada, has been involved in this scheme.
  - Secondly, the NACP has identified cases of fictitious marriages with women who either have a disability or three or more children, which qualifies as an exemption ground.
  - The third variant that was identified is fictitious employment in companies that have been deemed strategically important and therefore their employees are

exempted from mobilisation. These persons are not actual employers of the companies; they have bribed the companies to be added on the list as employee.

- The fourth most common variant is, according to the NACP, fictitious enlistment as a student to a higher educational institution, which makes it possible to obtain deferment from mobilisation.

The NACP stressed, though, that the mentioned schemes were not as frequent as the cases with the military medical commissions.

15. According to the NACP, it is not possible to forge the military tickets, but there have been cases of other forged documents, e.g. the temporary certificate of registration, which is just a piece of paper.
16. In August 2023, President Zelenskyy, replaced the heads of the military recruitment centres because of the corruption in these institutions. However, the replacement did not result in a decrease in the corruption level within the system of the MMCs. According to the NACP, it does not help to solve the problem of corruption by just sacking the heads of the centres. To eliminate corruption it is necessary to change the roots of the problems and reorganise the system from the bottom.

### **Regional differences**

17. At this point, the NACP has not identified any particular regional differences in the corruption cases. However, according to the source, the city Odesa stands out as being more corrupt, which probably is related to the high degree of Russian influence in this city.

In addition, the primary profiles of people using corruption to circumvent mobilisation are wealthy people, who can afford paying high sums of money. The NACP also noted that after the publication of the analysis in October 2022, the prices of corruption rose significantly. Corruption is also prevalent in other groups as well.

### **Punishment for corruption**

18. Since the full-scale Russian invasion, it has been difficult for border guards to fully verify all type of documents within the current system. The authorities have limited amount of time to check the documents and they are usually not resourced to investigate all aspects of a given document. According to the NACP, it requires a certain expertise to be able to detect a fraudulent document. However, when the practice of exchanging information between databases of different government authorities is fully implemented, it will be more difficult to circumvent mobilisation through corruption.
19. According to article 336 of the Criminal Code of Ukraine, evasion of conscription during mobilisation for military service in the events of martial law by persons from the reserve is punishable by imprisonment for a term of three to five years. The statute of limitations is set in article 106 of the Criminal Code of Ukraine, which describes that the end of term will be after 5 years of such crime action. The law enforcement bodies should investigate cases regarding persons, who have falsified a document to travel abroad. However, there would be thousands of such cases and the law enforcement agencies would not have capacity to investigate all cases. Furthermore, it is not a priority of the authorities,



because additional there are also many cases related to the Russian aggression, such as war crimes etc., which is deemed more important.

### **Anti-corruption measures:**

20. The work of the NACP does not only include the studies of corruption risks, but also ways to mitigate the risks.
21. NACP submitted several recommendations to the government in January 2023. Only one of these recommendations was introduced by the Cabinet of Ministers – the transfer in digital form of information from the hospitals to the regional military recruitment offices. The NACP does not consider this procedure as an anti-corruption measure; rather it is a procedure to make the transfer of information from one point to another faster.
22. The Cabinet of Ministers has the stand that each government body is responsible for implementing their own anti-corruption measures separately on their own level and it is supposed to be matter of concern of the government. However, the NACP opined that it is not possible to fight corruption entity by entity or by simply investigating individual cases, as putting people to liability in criminal cases is not an effective tool. Ukraine needs a comprehensive approach of the level of the government to build integrity connections between different systems.
23. The NACP has liaison representatives in each government institutions, but they work independently, thus not as effective as they could have been. However, as an example of progress, the NACP noted that when the president dismissed the minister of defence, the NACP liaison became deputy minister of defence and is already upgrading an electronic register system of persons eligible for drafting for mobilisation, which is a significant step to hinder corrupt practices within this system. The law on this register was adopted in 2018, but the previous ministers did not implement the register. Only when the new minister of defence was appointed, the officials began actively processing the register and work on connecting the register with other state databases. According to the latest data, up to 90 % of personal files has already been registered. The next stage is to verify the records.
24. The register was a clear recommendation of the NACP, and the intention is to connect the databases with the major stakeholders, such as the State Border Guard Service, the National Police, the Ministry of Internal Affairs, and Ministry of Health etc. The Ministry of Defence is also planning to integrate the database with two other databases – for the wounded soldiers and with the activities of the Military Medical Committees (MMC), which should be ready by the end of 2023.

## Ukrainian Helsinki Human Rights Union (UHHRU)

Meeting, Kyiv, 1 November 2023

### About the source

1. *The Ukrainian Helsinki Human Rights Union (UHHRU) is an association of human rights organisations in Ukraine, which unites 25 human rights non-governmental organisations. The main activities of UHHRU are protection of human rights and fundamental freedoms, by legal means – primary and secondary legal aid on local and national levels and strategic litigation in international institutions. The UHHRU provides legal assistance to individuals and perform monitoring of the observance of human rights and fundamental freedoms in Ukraine and inform about violations. Furthermore, the UHHRU conducts research on human rights and fundamental freedoms, including monitoring of draft laws and other legal acts, provides opinions and recommendations to the adoption of normative acts and monitors compliance with international human rights standards in public discussion of draft normative acts, incl. preparation of proposals. The UHHRU also provides human rights education and participates in educational events and campaigns at seminars, trainings, conferences, schools, etc. Since the conflict with the Russian Federation broke out in 2014, the UHHRU has been documenting war crimes committed in the conflict. A documentation centre about war crimes was established and in December 2021, it was transferred to the national level at the Ministry of Reintegration as National Documentation Centre. Since the full-scale invasion in February 2022, it has been advocating for an international criminal tribunal to prosecute Vladimir Putin and other main responsible actors of war crimes from the Russian Federation.*

### Conscientious objection and alternative service

2. In peacetimes, it is possible to serve in alternative service in Ukraine; however, neither conscientious objection nor alternative service are possible in wartimes due to legislative restrictions. According to the source, the issue will not be resolved within the nearest future. It might be solved only on parliamentarian level. The source explained that the issue on conscientious objection is not solved on a legislative level, as there is no legal base for exemption on conscientious grounds. (see Article 23 of the Law ‘On Mobilisation Training and Mobilisation’<sup>448</sup>).
3. There is no prohibition on exempting persons liable for military service from mobilisation based on pacifist beliefs during wartime, but the 10 reasons for exemption from mobilisation do not include the existence of such beliefs. Therefore, there is no actual legal basis for exempting such persons from mobilisation with reference to this provision.
4. If a person fails to show for military recruitment, it is a violation of the law and it is considered as a crime. There are several cases under process at the courts involving conscientious objectors, who do not wish to be mobilised. The source highlighted two

<sup>448</sup> Ukraine, Verkhovna Rada, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Training and Mobilisation]*, 1993, [url](#)

public cases regarding conscientious objectors; Yuri Sheliazhenko from the Ukrainian Pacifist Movement and Ruslan Kotsaba, who both are proclaimed pacifists. In both cases, criminal cases were initiated. In the case of Ruslan Kotsaba, a criminal case was opened for publicly calling for draft evasion.

5. The source explained that Ruslan Kostaba, who is now in the United States, was a «political prisoner» in Ukraine, because he refused to join the military on conscientious grounds, and he initiated a public appeal to avoid military service. The case was distributed in the media in January 2015 -2016. During the case, he was placed in pre-trial detention and accused of having committed a criminal offense.<sup>449</sup>
6. On the case regarding Yuri Sheliazhenko, the source explained that he proclaimed himself as a prominent fighter for the right to refuse to serve in the military and he faced criminal investigations that are ongoing.
7. Only a few cases of conscientious objectors present themselves in public and, in general, pacifists are not particular visible. The UHHRU generally advises people not to be public in these cases and avoid accusing the system. Furthermore, a person risks more actions from the state when speaking out in public, e.g. lengthy placement in pre-trial detention during the investigation for several months and up to one year as punishment instead of using home arrest. The source referred to the Ruslan Kostaba case. The authorities have legal grounds to do so.
8. There are legal guarantees in place, e.g. access to a lawyer and to participate in the judicial proceedings. The source underlined that individuals have rights, but that the current level of legislation must be taken into account (for example, the existing ten reasons for exemption from mobilisation).

### Exemption from mobilisation

9. According to Ukrainian law, it is possible to apply for exemption from mobilisation on certain grounds. The source mentioned age, health, handicap status, being an only son of old parents or only one parent of a child below 18 years, having three or more children as exemption reasons.
10. The UHHRU does not monitor the enforcement of the exemption rules in practice but stated that the exemption rules, in general, are enforced by the Ukrainian authorities. However, the source mentioned that there are some irregularities and highlighted a case of a person with epilepsy, who was mobilised and died in service.<sup>450</sup> According to the source, it was a scandal in Ukraine and the source assumed that there was an investigation afterwards.

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<sup>449</sup> Media Sapiens, *Блазень-«політ'язень» і медведчуківський пропагандист. Хто такий Руслан Коцаба*, 28 May 2021, [url](#)

<sup>450</sup> Suspilne, *У військкоматі на Одещині не коментуватимуть обставини смерті мобілізованого з епілепсією*, 5 August 2023, [url](#)

11. On exemption on religious grounds, the source explained that the law allows certain groups to be exempted or they may serve in special groups in the military, where they do not carry weapons. There is a unit of chaplains, for example.

### **Russian oriented persons**

12. Ukrainian citizens, who are Russian-oriented, are mobilised on equal terms as other citizens.

### **Dual citizenship**

13. The Ukrainian law does not recognise dual citizenship; neither citizenship imposed on a citizen of Ukraine nor citizenship that has been voluntarily obtained as the other citizenship is not considered valid in Ukraine. If someone has been imposed Russian citizenship in Crimea, Donetsk, Lugansk, Zaporizhzhia or Kherson after 2014 by the occupation administration and has not formally renounced the Ukrainian citizenship, the Russian citizenship is not recognised and has no legal value in Ukraine.
14. If a person holds a Ukrainian citizenship, the person can be mobilised to serve in the military, despite also holding another citizenship. There is as such no difference if the other citizenship is Russian, Hungarian, Rumanian, Slovak, Israeli etc.
15. The UHHRU is not monitoring if people, who also holds a Russian citizenship, are treated differently in the military when serving and have no information on this. However, there are volunteer battalions of other nationalities, e.g. international legions, where there are Georgian, Chechen, Belarussian and Russian battalions and other battalions created on national grounds. According to the source, they are treated equally as Ukrainian citizens in the military. If someone from these battalions deserts from military, there are no specific rules for processing criminal claims against them. They are covered by Ukrainian legislation and would be prosecuted according to the rules in the Ukrainian criminal code.

### **Stateless persons residing in Ukraine**

16. Stateless persons residing in Ukraine are not subject to mobilisation, as they do not hold a Ukrainian citizenship.

### **People residing abroad**

17. People residing abroad are also subject to mobilisation if they have received a summon to serve. If they are summoned, they must return to serve in the military. However according to the source, they will not be punished for draft evasion upon return at a later stage if they have not returned after having received the summon.
18. People residing abroad have an obligation to register with the consulate where there are staying, as a kind of protection if they need assistance as a Ukrainian citizen staying abroad. However, people do not do this in practice, and they are not held responsible for not complying with the obligation to do so. As far as the source knew, they are not punished or subjected to administrative procedures for non-compliance with the rules

when they return. Furthermore, to the source's knowledge, they will not have any problems in having new documents issued when they are staying abroad.

### **Recruitment procedures and forced mobilisation**

19. There is no digitalised system in Ukraine regarding mobilisation to the military. There is a proposal to include the summon procedure to the existing DIIA system, where all the digital documents of Ukrainian nationals are held, e.g. passport, driver license and other documents, however the legislative basis for this has not been introduced. The only procedure for mobilising people is the current written procedure.
20. Before the full-scale invasion in 2022, almost 30 % of the population did not stay in their registered places. The place of registration is not reflected in the passport, and someone can be registered in one region, e.g. Lviv, Ivano Frankivsk or Odesa, because of having participated in local elections there, but afterwards this person has lived in another region, e.g. Kyiv, for a long time. According to the source, the number could now be higher than 30 %.
21. In general, the military commissions will not know where people are residing, because they only have information on the place of registration. In this regard, they cannot present them with a summon. A summon to appear before the military recruitment offices must be presented in person and signed and it cannot be handed over to a relative, at the workplace etc. If no summon has been presented, the person does not have a legal obligation to present themselves for mobilisation and therefore they are not considered evaders. According to the source, many people are avoiding mobilisation, because the military commissions cannot locate the persons liable for mobilisation as they do not know where they are residing. If they are stopped on the street by the police, they can check the military status and hand them a summon to appear before a recruitment office. The source was not in possession of statistics on how often it happens.
22. The military commissions can hold people in custody and bring them to the military units. The source provided an example of two colleagues, who were travelling to a conference for work, but who had not received their permission to leave the country ahead of the conference. They were stopped on the way and one of them was arrested and held in custody for two to three days incommunicado. They received summons to appear before the local military recruitment office to go through the formal procedure for mobilisation and was brought there. According to the source, it makes no difference who the person is or whether or not he is a pacifist, as he has an obligation to serve.
23. In some cases, people have been illegally detained and imposed not to leave the place of residence or the country and brought straight to the military recruitment offices by force. According to the source, forced mobilisation happens often. The source mentioned an example where people at a party had their military status checked by the police and were presented with a summon to appear at the military recruitment office to follow the procedure, go through medical checks etc. The source also mentioned another recent example where a Russian-speaking taxi driver got in an argument with a passenger. His

military status was checked with the military commissions who discovered his military status, and he received a summon and was taken to the recruitment office.

24. There is proposal to implement an initiative where the military recruitment offices can receive information on people from their official workplace, so they can be mobilised from the workplace. The source explained about an initiative to introduce the scheme as an obligation for the administration of the workplace to provide a list of persons who are eligible for mobilisation answering a request from the military recruitment offices.<sup>451</sup> Until now, the source had not received or heard of such a request being sent yet, but it might happen.

### Women

25. Women with certain professions are subject to mobilisation, however only representatives from the public officials or administrators have been subject to restrictions e.g. a travel ban. The source mentioned representatives from the judiciary as an example. The source had not heard of women with other professions being mobilised.

### Corruption

26. There are substantial problems with corruption in Ukraine in terms of the mobilisation procedure. The heads of the military medical commissions have been replaced as a result of this, but according to the source, this has created an even worse situation.<sup>452</sup> After the replacement, the number of mobilised persons has dropped, according to statistics. The source did not know the reasoning behind and had his information from the media. The source mentioned that the new heads of the commissions have a lack experience and links in the communities where they work and are not effective like predecessors. The source was of the opinion that more difficulties had arisen after the replacement of the heads of the commissions.

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<sup>451</sup> European Business Association, *Новий порядок ведення військового обліку на підприємстві: дев'ять основних змін*, 8 February 2023, [url](#)

<sup>452</sup> New Voice, *«Потрібні непопулярні рішення». Після звільнення військомів стався провал мобілізації. Що хочуть змінити — інтерв'ю NV з Костенком*, 24 November 2023, [url](#)

## An international humanitarian organisation with headquarter in EU

Meeting in Kyiv, 1 November 2023

### Introduction

1. The source is an international humanitarian organisation with headquarter in EU, who has been working in eastern Ukraine since the beginning of the war in 2014 in the humanitarian field, but also with the development of local communities and support of civil society organisations, education of young people and the resilience of the conflict-affected people. Following the Russian invasion in February 2022, the international organisation has expanded its team to provide humanitarian, financial and psychosocial assistance throughout the Ukrainian territory.

### Updates to legislation regarding mobilisation

2. Among the main changes in the legislation regarding mobilisation since February 2022 – is the legislative framework on exemption from mobilisation stipulated in Decree No. 76 of 27.01.2023. Pursuant to decree no. 76, women with specific professions, including those with medical education, must register for military service by approaching the conscription centre (without any sanctions for not registering as of now). However, women are still permitted to exit Ukraine.
3. The draft law No 10062 “On amendments to some laws of Ukraine on improving the procedure for processing and using data in state registers for military registration and acquiring the status of a war veteran during martial law” submitted to the Parliament aims to centralise various databases into one centralised electronic system that would enable information exchange between state bodies, including information on persons liable for mobilisation. The Ministry of Defence has declared that the centralisation is a priority. The draft law was adopted by the Parliament in the first reading on 8 November 2023. As of now it is under preparation for the second reading in a committee of the Parliament. The source explained that the draft law could be adopted during the second reading depending on the number of suggestions from the Members of the Parliament.
4. The draft law 10062 provides for the transfer of personal data on citizens aged 17 to 60, which are contained in various state registers (Tax Service, Ministry of Health, Ministry of Justice, the Ministry of Internal Affairs, Central Election Commission, State Migration Service and other agencies) to the Ministry of Defence. In particular, the latter will get access to personal phone numbers and e-mail addresses of conscripts. All relevant information will be contained in the electronic cabinet of the conscript, which must be created in accordance with this draft law.
5. According to the source the draft law is supposed to facilitate the exchange of information between different registers kept by the executive authorities for military purposes, mobilisation in particular. The existing DIIA system’s purpose is provision of administrative services electronically. It is connected to other different registers and can be used to issue



notices, e.g. a subpoena to court. The source opined that the DIIA system could be used to send summons to register at the military territorial centres, however the source was not sure about the binding characters of these. There is concern from members of the Advocacy Working Group under the Humanitarian NGO Platform in Ukraine (over 100 NGO members) regarding personal data protection pertaining to the centralised database. The NGOs of the working group are also concerned that, according to the legislation in force<sup>453</sup> the directors of NGOs and other relevant officials can be held accountable for:

- violating the legislation on defence
  - mobilisation training and mobilisation, in particular, for not submitting to the district (city) territorial centres of recruitment and social support lists of citizens who are subject to registration at conscription centres
  - for hiring conscripts and reservists who are not on the military register
  - failure to provide notification of conscripts, conscripts and reservists about their call to the district (city) territorial centre of recruitment and social support
  - Security Service of Ukraine body, division of the Foreign Intelligence Service, for obstruction of their timely arrival at assembly points and conscription stations
  - untimely submission of documents necessary for keeping military records of conscripts and reservists
  - failure to submit information about such persons (paragraph 87).
6. The mentioned draft law can bring even more risks. The Office of the Ombudsman has a department for personal data protection, in which they analyse all draft laws from the point of view of personal data.
  7. There is a discussion in the Parliament regarding the possibility of blocking bank accounts of persons who received summons for mobilisation and signed it. According to the source, the adoption of this proposal will make it more difficult for people to avoid mobilisation. There is a discussion in the Parliament to adopt a provision allowing Ukrainians eligible for mobilisation to leave Ukraine for a period of time if they pay an amount of money as guarantee for their return. According to the suggestion, the sum will be added to the military budget, if the person does not return. In the meantime, the Government adopted a decree to launch a pilot procedure since 1 September 2023 (Evidriadzhenia), allowing entrepreneurs (FOPs) and staff of legal entities, complying with certain conditions) to leave Ukraine for 7 days after paying temporary bail of UAH 200.000,00. The source referred to an article.<sup>454</sup>
  8. There has been a change in the legislation regarding deferment of mobilisation for students. A person enrolled in a higher education can apply for deferment of mobilisation. Under the announced reform of the mobilisation procedure, it will be possible only for

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<sup>453</sup> Ukraine, Cabinet of Ministers, *Resolution, On approval of the Order of organization and maintenance of military records of conscripts, conscripts and reservists*, 30 December 2022, [url](#)

<sup>454</sup> Ukraine, Ministry of Digital Transformation, *The government adopted a resolution that will allow entrepreneurs to go abroad on business trips*, 19 August 2022, [url](#)

students studying for the first time (first time enrolment). If a person enrolls for a second or third higher education, he will not be eligible for deferment. On the website of the State Border Guard Service (SBGS), students do not have the entitlement to exit Ukraine even though they are deferred from mobilisation and study abroad.

### Profiles of people

9. The source explained that there are more checks on the streets and in other public places (gyms, night clubs, checkpoints, including at the entry/exit from the cities/towns/villages), visits to the offices. In Western Ukraine conscripts often hear negative comments from the local populations and there are also examples of landlords refusing men to rent an apartment.
10. On the subject of impact of the lack of exemption procedure for the humanitarian NGOs and their staff the source referred to a survey conducted in July 2023 by the humanitarian NGO Platform in Ukraine among NGOs working in Ukraine. The survey result identified four main issues related to exemption procedures for NGOs:
  - Inconsistent legal interpretation of Decree 76 and resulting lack of recognition of NGOs as critical entities: as of July 2023, 32 out of 33 NGOs had still not obtained the status of critical entity which is necessary to apply for the exemption procedure. According to representatives of the Ministry of Foreign Affairs (MFA), from a legal perspective, Decree No 76 contradicts the Law No 2732-IX which provides that specific humanitarian NGOs should be recognized as “critical”. However, the interpretation of the Decree by the MFA and the Secretariat of the Ukrainian Government (SoG) is that they are not authorised to recognise the “critical” status of NGOs, but only of humanitarian projects. The Decree therefore should be amended to comply with the Law. The source stated that the MFA with support of the humanitarian NGO Platform developed amendments to the Decree 76 to resolve the issue. The draft is currently being considered by the relevant ministries.
  - Incomplete list of humanitarian donors: despite the numerous public announcements by governments and their implementing agencies of humanitarian assistance over the course of the 18 months, including publicly available information of donors contributing to the Ukraine Humanitarian Fund, the list of approved “donors” published by MFA on 27 February 2023 is limited and does not include a number of major actors. Of the 33 NGOs that responded to the survey, only one NGO stated that all their donors are present in the list and 51% said that some of the donors were in the list. The source stated that the MFA has now recognised the problem, and the NGO platform has provided a list of donors to the MFA.
  - Long and unclear procedures: NGOs and UN agencies have reported that the processes to submit the requests for exemption have been complex, with

frequent requests for additional documentation or information considered confidential. Particularly, when NGOs submitted a list of staff to the SoG, the SoG referred the files to the MFA that refused to recognise the NGOs as 'critical'. Of the 33 NGOs who submitted requests, 42% received feedback on their request and among them, 21% were referred to another authority (usually the MFA); 17% were requested to provide additional documentation; and 17% did not receive a response to their submission. This can partly be explained by the fact that different units in the MFA are responsible for managing the procedures, which cause additional delays. In light of this, NGOs are concerned that their ability to deliver humanitarian assistance to the people most affected by the crisis will continue to be hampered or become extremely limited.

- Increase of risks: the current process for registering national and international NGOs at the centres for staffing and social support carries risk since national and international NGOs are requested to submit lists of all their staff liable for mobilisation, which could prompt immediate mobilisation notices for them handed over through the heads of the NGOs.
11. Ukrainians of conscription age residing abroad are eligible for military service; however, there are no mechanisms in place to summon them abroad. There are no known sanctions against Ukrainians staying abroad who are eligible for military service, but according to the source there are risks when they are back to Ukraine during and after the martial law. This is also because there is no connection between databases and registers. For instance, the embassy cannot officially refuse the renewal of a passport of a person who is eligible for military service, but it is responsible for registering persons liable for military service abroad (and facilitating their return), so it may require such a registration as a condition for issuing the new passport (Government Decree on mobilization of December 2022). However, there is no clarity on this although it may be a possibility. The source opined that it will be easier to follow the conscripts staying abroad with adoption of the new law on the unified registry. The source also opined that in this case conscripts will avoid even more registration in the embassies and may choose to live with the expired passports illegally, if the risks will be too high.
  12. Ukrainians with dual citizenship are solely considered as Ukrainian citizens, according to the Constitution of Ukraine, and hence they are eligible for military service. However, those who are enforced Russian citizenship in the occupied territories could be subject to an unofficial strict background-check by the Ukrainian authorities to investigate if they are pro-Russian or have connections in some other way to the Russians. The Ukrainian authorities have been active in investigating persons who support the Russian Federation, but such practice is not official.
  13. Some categories of women are eligible for military accounting - women with medical and pharmaceutical background. They have to register in the military territorial centres and can be fined if they do not register, but this provision has not been applied. However,

regarding mobilisation there is an unofficial moratorium as of now (statements of the Ministry of Defence's officials). No women are forcefully recruited, so, as it is voluntary to mobilise. However, the policy and implementation of the legislation in force can change any time, which make women residing abroad reluctant to return to Ukraine.

14. The source is not aware of other profiles of people beyond persons aged 18 – 60 who are subject to mobilisation outside of on a voluntary basis.

### **Recruitment procedures and forceful mobilisation**

15. Generally, it is a uniform procedure that persons eligible for military service are summoned by receiving a notification letter in person. Following the signature of the letter, the person is obliged to approach the military recruitment centre on a specific date mentioned in the summon.
16. There is no centralised registry for military mobilisation. The military territorial centres have registered information on persons eligible for mobilisation from previous procedures e.g. registration of address. In addition, the military territorial centres can exchange information on individuals from other authorities' registries, e.g. information from tax offices, banks etc., which makes it possible for the military territorial centres to locate persons liable for mobilisation. The source explained that the other registries are inter-linked. However, according to the source this exchange of information is not quite sufficient, which has led to the development of draft law no. 10062.
17. According to the source, people are often stopped to have their documents checked. There are reports of men being stopped at checkpoints in their cars and taken by force to a military recruitment centre and they use pressure to make them sign the notification letter. For instance, there are examples presented in mass media and from official comments from the law-enforcement authorities of beatings and other measures at recruitment centres against men refusing to sign to put pressure on them. Once someone has been brought to the military territorial centres, they have limited options to protect themselves from forceful mobilisation. According to the source, the cases with physical violence happen as isolated cases, whereas cases with psychological pressure are more common, especially when persons are stopped during the checks.
18. There are reports from Odesa, Lviv and Dnipro of forced mobilisation where recruitment officers have used aggressive force against males travelling in buses or cars and brought them to military recruitment centres against their will to be mobilised immediately. The source mentioned an example of a staff member who had been checked many times while entering Kyiv from the oblast having to show passport or DIAA application even though the staff member was not eligible for mobilisation.
19. Men fear going to employment centres and apply for legal jobs, as they fear being mobilised. There is a requirement to be registered at the territorial centre if you apply to the employment centre. Before hiring a person of conscription age, employers have to check if this person is registered at the territorial centre and, if not, it may create

problems, as employers then become obliged to take up functions of accounting conscripts. Many men, first of all IDPs (as they changed place of residence and have to register at the new place within 7 days), prefer illegal employment. Forced mobilisation has been more prevalent in smaller cities compared to bigger cities. Moreover, NGO workers have been exposed to forced mobilisation in the southern and eastern Ukraine, and hence they have been reluctant to travel to these locations. Particularly, technical staff, drivers and engineers fear the risk. It has been a tendency for the past 5-6 months.

20. According to the source, forced mobilisation is taking place all over Ukraine and is a risk for all profiles.

### Conditions during mobilisation

21. The term of period in the military vary according to the different units and depends on shortage of staff. Hence, there is no minimum or maximum term of service. It is generally difficult to be demobilised, and according to the source, no one has been demobilised. Only wounded soldiers tend to be demobilised, however, there are examples of people who are discharged from the hospital and immediately mobilised to the front. According to the source, there has been an unofficial order from the Military Commands that nobody can be demobilised.
22. Leave of absence is arbitrarily granted. It is commonly known that servicemen must bribe commanders in order to take leave of absence from the military. Military servicemen serve for many months without a break even though they are exhausted. Military staff are rarely granted leaves and they are very short (usually 3 days).
23. There are no minimum standards for conditions during service.
24. In the beginning of the invasion, military servicemen were provided with uniforms and equipment but nowadays such items often must be acquired on own expenses with support of the donations. The source emphasised that there are a lot of announcements on social media to collect money for military equipment. Many soldiers do not have the proper equipment.

### Exemption

25. In March 2022, the government introduced a decree that enabled humanitarian organisations to seek exemption for their employees. According to the source, within the humanitarian NGO Platform in Ukraine consisting of more than 100 NGOs, only two NGOs managed to secure conscription exemption for their employees. Hence, NGOs experienced that the exemption procedures did not function. In January 2023, the Cabinet of Ministers adopted decree No. 76 on the procedure for temporary exemption. However, the provision contradicts the law, stipulating that NGOs should have the status critically important for ensuring the vital needs of the livelihood of people, but the decree does not provide such an opportunity, stipulating NGOs' staff can get exemption if they implement specific vitally important projects funded by international partners (project-based

approach). Moreover, the possibility to receive exemption is based on funding from certain donors preventing some NGOs. According to the source, the list approved by the MFA is very limited.

26. Beyond NGOs, it was the impression of the source that the exemption procedures work in general, however, there are a number of violations on exemptions in practice. The source explained that people are still summoned to appear at the military territorial centres to provide documents on their status, thereby having to protect their rights. There are examples of violations happening still. It also remains a problem for the NGOs, which make up a large sector in Ukraine. In addition, enterprises and state servants also face challenges in receiving exemption status and exempting their staff. The exemption procedure is generally complicated.
27. Regarding other legal exemption reasons, such as being a father to three or more children- or having a child with disability, it was the impression of the source that the procedure works. However, there have been some violations where people have been summoned with pressure put on them even though they had the exemption document.
28. When presenting the required documents, exemption status is generally granted. There may be situations where persons with less resources and knowledge are conscripted despite having the legal exemption reasons. Persons liable for military service have to be aware of the right to exemption and actively secure the needed documentation in order not to be summoned.

### **Corruption**

29. According to the source, corruption is prevalent across all levels of the system and the source mentioned that there are public scandals every day with corruption at all levels.
30. The most common way to circumvent mobilisation using corruption is by forging medical documents or by registering a relative as a person with a disability and becoming his or her guardian. This usually happens through the military recruitment centres or local medical institutions.
31. According to the source these types of corruption is pertinent to all regions.

### **Draft evasion and desertion**

32. Relevant articles of military men, bloggers and other public people, criticising military draft evaders, appear from time to time in the mass media. In these articles there is a comparison of the life of the men serving in the Ukrainian army and the people living in cities such as Kyiv, Lviv etc., going to restaurants, night clubs, denouncing such lifestyle. In the Western Ukraine there are more negative comments from locals, refusal to rent an apartment etc. According to the source the negative attitude is prevalent both among ordinary citizens and local officials.
33. Draft evaders returning from abroad are not met with consequences upon return, as they have not been properly summoned for mobilisation by signing a notice. The source had

not heard of Ukrainian citizens residing abroad being presented with a summon for mobilisation, e.g. through an embassy. Deserters returning from abroad will be presented with criminal liability upon return.

### **Pro-Russians**

34. Any pro-Russian rhetoric is heavily criticised, including publicly, and is quite dangerous for any person, not just for military staff or evaders. It can bring interest from the law enforcement authorities. According to the source, even the use of the Russian language is not welcomed and criticised and leads to discrimination somehow, especially in the Western Ukraine. The majority of IDPs are from the south and east and from the Russian-speaking regions.

## **International Organisation working in Ukraine**

**Meeting, Kyiv, 2 November 2023**

### **Legislation regarding local staff in international organisations etc.**

1. The full-scale invasion and the following introduction of martial law in February 2022 resulted, among many other things, in an uncertainty for the continued functioning of international organisations and national and international NGO's. The uncertainty was not only related to the local, Ukrainian staff, especially male staff, in risk of being mobilised to the army, but also related to practical matters such as rental agreements, electricity etc.
2. The introduction of Resolution No. 76 from the Ukrainian Cabinet of Ministers dated 27 January 2023 set a framework and provided more clarity for especially international organisations and diplomatic representations in Ukraine regarding the situation of their local employed staff in terms of exemption from mobilisation. It made it possible to reserve staff "*...from enterprises, institutions and organisations that were critically important for the functioning of the economy and ensuring the livelihood of the population...*" (Resolution No. 76 – see appendix) during martial law.
3. The resolution was important because it was stated that 100 % of local staff of the international organisations, which are critically important, could be exempted from mobilisation, if they met the conditions for the exemptions. Before the resolution, there were no clear provisions regarding the percentage of the local staff that could be exempted. The resolution set clear instructions for those organisations that are critically important for the functioning of the country's economy and the livelihood of the population. It applies to all the UN organisations, foreign diplomatic institutions in Ukraine, representations of donor institutions, implementers of international technical assistance projects, representations of international organisations, international and Ukrainian non-governmental organisations that implement humanitarian projects with the funds of international partners. As a consequence of the Resolution, the Ukrainian Ministry of Foreign Affairs (MFA) requested all international organizations to submit the application for reservation of persons liable for military service in accordance with the revised procedures and appropriate templates.



4. The source noted that the discussion on exemption already began in July 2022 with the MFA, but at that time no response was received from the MFA. Since MFA had an intermediary role, the process took considerable time because the organisation of the source did not have direct contact with the Ministry of Defence or the Ministry of Economy etc. The final agreement was based on existing bilateral agreements, which secured the immunity for international staff. The international organisation working in Ukraine has since its start of work in Ukraine worked under an agreement with the government of Ukraine that gives its locally employed Ukrainian staff a certain degree of protection that correlated the amount of immunity. The important part in the agreement is that any actions taken by the government or authorities of Ukraine should not jeopardise the functioning and continuation of the international organisation working in Ukraine.
5. More than 35 % of the staff in the organisation of the source consisted of local Ukrainian males, and the international organisation working in Ukraine began the application process of having them exempted from mobilisation. However, the Ukrainian authorities did not reply for a long time, even though the international organisation working in Ukraine followed up on the application regularly. The prolonged waiting caused a lot of concern of being mobilised among the local male staff. The source was not the only international organisation who faced this uncertainty and was of the belief that the pressure of many international organisations working in Ukraine eventually led to the adoption of Resolution No. 76 in January 2023.
6. The Resolution laid down the exact procedure and provided the format and template to apply. From the adoption of the Resolution, followed by a collective application for exemption, it took five months for the approval of all male staff, except for those who did not have a proper military occupational specialty.
7. The procedure requires that the military occupational specialty of the person applying for exemption shall be clearly specified in the military registration papers, usually a valid military card. The absence of a military card continues to have the implication that the organisation cannot apply for exemption for the person concerned. That person must approach the military registration office, in which the person is registered, and clarify their functions. After having obtained the necessary documentation, the person can re-submit the application for exemption, if he was previously rejected due to a lack of fulfilment of the document requirements.
8. The application is submitted to UMFA, which subsequently forwards the application to the Ministry of Defence and the Ministry of Economy. The Ministry of Defence ought to have 10 days and the Ministry of Economy five days to process the application and the total application process should take 10 days; however, the first round of application took five months to complete.

### **Mobilisation methods**

9. In some regions, such as, for instance, the Odesa region, the authorities have been more active than other regions regarding mobilisation. Public stories described the prevalence of authorities handing out summons in the streets or in public transportation in some

regions. In Kyiv, however, there were fewer cases on mobilisation in the streets. Nevertheless, before receiving exemptions, the local male staff of the international organisations in Kyiv were worried to be subjected to forced mobilisation.

10. The unclear situation resulted in the local male staff of the international organisations being hesitant to physically come to the offices, because they feared being summoned on the streets. However, the organisation of the source drafted a letter to their local staff to carry with them, stating that the person was in the process of applying for exemption. Even though it was not an official letter acknowledged by the Ukrainian authorities, its presence provided some kind of security for the male staff, and the authorities seemed to respect the letter.
11. The source does not have information on recruitment procedures and forced mobilisation outside of the example with local male staff working in organisations.

### **Corruption**

12. The source highlighted that it had not identified any experiences with corruption in the application procedures of the exemption of their local male staff from mobilisation. The application procedures have been clear and transparent from the beginning, even though the first application was pending for five months. The situation affected all international organisations in Ukraine equally. The official explanation from the Ukrainian authorities was the high amount of applications being the cause for delay. The process was the first of its kind and the Armed Forces of Ukraine did not have sufficient capacity to administer this application process because they needed to crosscheck every person.
13. On the subject of corruption, the source relies entirely on publicly available, open-source information, such as from the media, social media etc. and is not working with undisclosed information.
14. Corruption exists in Ukraine, also within the mobilisation process. The source referred to information from the news in the end of October 2023, where the President stated that there have been a number of cases of corruption related to avoiding mobilisation where people have had their registration annulled due to health reasons or simply taken out of the register and then left the country.
15. According to the source, the procedure at the border has been tightened and more checks are conducted. However, it depends on who is trying to leave the country. The source exemplified that it is easier for students to cross the border. At this moment, the State Border Guard Service (SBGS) is not willing to cooperate with the organisation of the source on border procedures.

## International Organisation based in Kyiv

### Meeting in Kyiv, 2 November 2023

1. The International Organisation in Ukraine monitors the human rights situation related to the armed conflict. The source is not focusing on mobilisation, draft evasion or desertion in Ukraine during martial law as an area of priority in their human rights monitoring.

### Conscientious Objection

2. The Constitution of Ukraine recognises the right to conscientious objection in Article 35, Paragraph 4. The provisions in the constitution is non-derogable. During the period of martial law, certain derogations are permitted from the constitution. However, in the president's decree on martial law, there is a list of constitutional articles that may be derogated or restricted during the period of martial law, but Article 35 on religious freedom and conscientious objection does not appear on the list. Therefore, there is no limitation envisaged in the decree on martial law.
3. There is a special law on alternative non-military service, but the law only applies in peacetime. In Article 1 of the law, there is a sentence stating that the right to alternative non-military service may be restricted during the period of martial law with an indication of a period of restriction. However, there is no specific legislation about this restriction. In this regard, the law permits restrictions, but the restrictions are not provided by the legislation. The Law on Mobilisation is silent about conscientious objection. Hence, there is no right to be exempted from mobilisation referring to conscientious objection.
4. There are bylaws on alternative service<sup>455</sup> which are from the 1999 concerning the application of the implementation of the law on alternative non-military service. An annex to the resolution of the government lists 10 religious groups that are eligible to apply for exemption referring to conscientious objections, including Jehovah's Witnesses, Adventists, Evangelists, International Society for Krishna Consciousness etc. However, the source does not monitor how the law is applied in practice during martial law and can only provide information on conscientious objection from a legal perspective. However, from a legal perspective, since there is no specific legislation stating how the right of conscientious objection is restricted or should be restricted during martial law, the right to conscientious objection should still be applied after the introduction of martial law, as there is no specific legal act stating that the right to conscientious objection is restricted during martial law.
5. The International Organisation does not monitor if there are any societal negative attitudes towards people, who refuse to be mobilised. However, the source referred to an article by the Economist<sup>456</sup> from 1 November 2023 covering an interview with General

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<sup>455</sup> Ukraine, Cabinet of Ministers, *On the approval of normative legal acts regarding the application of the Law of Ukraine*, 10 November 1999, [url](#)

<sup>456</sup> The Economist, *Ukraine's commander-in-chief on the breakthrough he needs to beat Russia*, 1 November 2023, [url](#)

Valery Zaluzhny, who states that loopholes to evade military service should be closed. However, the article does not refer to conscientious objectors but the article may give an indication of the overall atmosphere in regards to circumventing mobilisation. According to the source, the loopholes mentioned in the article refers to exemptions for students, men with ill or disable family members etc. as the right to conscientious objection cannot form basis as an exemption ground.

6. According to the source, there has been a strong and widespread national support for the military in Ukraine in the society referring to an opinion poll, which indicated that more than 90 % of the population supports the military. The military is an institution that enjoys an unusual high level of support. The source referred to following poll<sup>457</sup> and article<sup>458</sup>.
7. Based on anecdotal evidence, newly mobilised servicemen are attending an introduction course, in which they are asked to flag their conscientious objections towards bearing arms etc. In that case, military servicemen are obliged to provide proof that they belong to one of the churches listed in the annex on the right to alternative service, as mentioned above, and then presumably the person may be exempted.

### Exemptions from mobilisation

8. The International Organisation does not monitor, if the military authorities generally respect the rules of exemption from military.
9. With reference to the Constitution of Ukraine (article 65), every person is obliged to defend independence and territorial integrity of Ukraine, which might require for men to serve in the military, if they have no exemption ground. As examples of exemption reasons, the source mentioned having ill or disabled family members, having health problems, having family members who died in service, having three or more minor children, teachers at universities and schools etc. The source referred to the Law on mobilization training and mobilization<sup>459</sup> as the legislative basis. The appeal procedure is a general procedure of appealing the decisions of state bodies, however, the source did not have information on how the appeal procedure is if someone is rejected in an application for exemption.
10. There is also a reservation procedure, where employees from state institutions, international organisations and other companies can apply to the Ministry of Economy and General Staff to reserve employees, whose work is essential for the state and the organisations. In such situation, the Ministry of Economy, if approved by the General Staff,

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<sup>457</sup> Visit Ukraine, *Elections in time of war and trust in Zelenskyy: how many Ukrainians support the President of Ukraine now?*, 15 October 2023, [url](#)

<sup>458</sup> Razumkov, *Citizens' assessment of the situation in the country. Trust in social institutions, politicians, officials and public figures. Attitudes towards holding national elections in Ukraine until the end of the war*, 11 October 2023, [url](#)

<sup>459</sup> Ukraine, Verkhovna Rada, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Training and Mobilisation]*, 1993, [url](#)

can provide the applicants with a general reservation with reference to exemption from military service for a specific time period.

### **Mobilisation procedures and forceful mobilisation**

11. The International Organisation only monitors forceful mobilisation in the occupied territories by the Russian Federation and not Ukraine since International Humanitarian Law (IHL) prohibits the occupying power (in this case – the Russian Federation) to mobilise residents of occupied territories. It is a constitutional obligation of citizens to defend independence and territorial integrity of Ukraine and the authority to mobilise male citizens is established by law. Therefore, the source does not monitor the mobilisation methods.

### **Alternative Service**

12. During peacetime, the duty period of alternative service is 50 % longer than the general military service. Persons granted alternative service are taking up positions in state institutions or companies involved in communal services, healthcare, farming or construction, or they can be engaged with the Ukrainian Red Cross Society. The source did not have information on how the rules on alternative service was implemented, as the source has not been monitoring the use of alternative service in the military.

### **Profiles of mobilised people**

13. The law on mobilisation governs which profiles that are mobilised to serve in the military. Generally, women are only mobilised on voluntarily basis and persons under 18 years old are not being mobilised, however, it is assumed that persons below the age of 24 are not mobilised as well, In general, the source does not monitor the situation of profiles being mobilised.

### **Conscription in the occupied territories by the Russian Federation**

14. The International Organisation monitors the situation of mobilisation of Ukrainian citizens to the Russian army in the occupied territories. International Humanitarian Law prohibits the occupying power (in this case – the Russian Federation) to mobilise residents of occupied territories into its armed forces.
15. The International Organisation was not sure to what extent persons are rounded up on the streets and forcefully brought to the Russian Armed Forces. Some cases of forceful mobilisation have been documented concerning persons with very specific characteristics. The source has not established a pattern in these cases at this stage.
16. Generally, Ukrainians in the occupied territories are pressured to take Russian passports, otherwise they have limited access to healthcare, social services, employment etc. In practice, obtaining Russian citizenship may then lead to conscription to the Russian Armed Forces. These procedures were established in Crimea and most likely extended to the

remaining occupied territories. The imposition of Russian passport and the act of restricting Ukrainian citizens from accessing medical services, education or opening a bank account are in itself a violation of IHL. Compelling a protected person to serve in the armed forces of the occupying power constitutes a grave breach of the Geneva Conventions.

17. The government of Ukraine has a program for enrolment of Ukrainian citizens who are already serving in the Russian Armed Forces that grants immunity for prosecution, if they turn themselves in.
18. There are some cases of Ukrainian POWs in Ukraine, who were mobilised into the Russian Armed Forces. The treatment of these POWs depends on the situation; some are prosecuted for treason and some are exchanged back to Russia. According to the source, the POWs often have the choice to decide whether they wish to be exchanged or undergo prosecution in Ukraine.
19. Ukrainians with dual citizenship are recognised as Ukrainian citizens according to Ukrainian law. Hence, from a legal perspective, Ukrainians with imposed Russian citizenship have the same obligations as all other Ukrainian citizens, including to contribute to the national defense, as described above.

### **Treatment of Ukrainians with pro-Russian mind-set**

20. According to the monitoring of the International Organisation, there are Ukrainian nationals who are detained and under charges for collaboration with the Russian federation. However, many Ukrainian nationals have family relations or friendships in Russia and do not face prosecutions.
21. Pursuant to the Criminal Code of Ukraine, it is criminalised to support the aggressor state. For instance, posting pro-Russian or pro-Putin content publicly on e.g. social media accounts glorifying the Russian invasion is subject to prosecution. Overall, disproportionate punishments are applied to the various provisions of the Criminal Code relating to national security and collaboration with the Russian Federation. Generally, the actual punishment is lower than the maximum possible punishment prescribed by the Criminal Code. The Criminal Code prescribes up to five years of imprisonment for posting pro-Russian or pro-invasion social media content, but in many cases, the offenders are sentenced with suspended imprisonment and/or prohibition to take up positions in public offices. On the other hand, there are examples where minor offences are sentenced with imprisonment. There are cases of Ukrainian nationals being held for lengthy periods in pre-trial detention for reposting pro-invasion social media content.
22. Persons charged with national security offences are usually held in separate wards in the detention facilities for their protection. The source has not observed any serious conditions of ill-treatment or torture in these facilities but could not rule out the possibility. The main concern of the source is the use of lengthy pre-trial detention and the access to a fair trial.

23. Generally, there is a free legal aid system in Ukraine with access to free legal representation and guarantees. The cases are processed in the normal criminal procedure according to the Criminal Procedure Code of Ukraine. There are no special military courts or military justice systems. All the cases are considered by general courts with the legal guarantees and rights available to the defendants as in any other criminal case not related to the war or national security. Moreover, participation of a legal counsel is mandatory in all cases concerning especially grave crimes (i.e. those that provide imprisonment for more than 10 years as a punishment), as well as in cases where the defendant does not speak Ukrainian or for *in absentia* trials.



## Liubov Velychko, Investigative Journalist

### Meeting in Kyiv, 2 November 2023

1. Liubov Velychko is a freelancer, who has worked more than 10 years as an investigative journalist, mostly covering topics of high-level corruption. Under the full-scale invasion, Liubov Velychko reports about the situation of the war and the corruption related to it. She works with the biggest Ukrainian medias, and produces texts and videos. Liubov Velychko has been a member of the National Union of Journalists in Ukraine since 2006 and a member of the Centre for the Study of Corruption and Organized crime (OCCRP) since 2015.

### Corruption

2. According to the source, more than 1,300,000 people were already mobilised into the Ukrainian army during the full-scale invasion. According to statistics from political scientists, 15% of Ukrainians have pro-Russian mind-sets. These people are most involved in anti-state activities: starting with corruption in state bodies, such as the Ministry of Defence of Ukraine, the Security Service of Ukraine, the Foreign Intelligence Service, etc. In 2019, deputies of the pro-Russian parties "Opposition Bloc" and "Opposition Platform - for Life" received 49 mandates in the parliament (which is 11.5% of the total number of deputies)<sup>460</sup>.
3. According to the source, thousands of people try to pay money to avoid mobilisation. The corruption schemes most frequently used to be exempted from mobilisation includes bribing doctors to falsify documents about health conditions or bribing government officials to falsify documents about relatives' health condition. Another way to avoid mobilisation is to acquire forged documents to exit Ukraine. For instance, it is common to bribe NGOs transporting military equipment in exchange to be registered as volunteers to be able to exit Ukraine. Another less common scheme includes paying border control officers of the State Border Guard Service (SBGS) to cross the border. Finally, it is common that politicians and state officials forge invitation letters required for business trips abroad in order to avoid mobilisation.
4. Most corruption cases pertain to the Military Medical Commissions (MMCs), which is under the control of Military Recruitment Offices (vojenkomat). Since the MMCs issue the health condition documents, they are subject to corruption. That is the reason why President Zelenskiy replaced the heads of MMCs to eliminate the forgery of documents to avoid mobilisation. The source explained that the MMCs do not look at previous health records during the recruitment procedure. Instead, they make their own health assessments, during which corruption is quite prevalent. When making use of corruption in such situation, the documents issued are real, but they are issued on false premises. The amount of money to be paid in such cases varies.

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<sup>460</sup> Ukraine, The Central Election Commission, *Elections to the Parliament of Ukraine*, 21 July 2019, [url](#)

5. There are no regional differences regarding corruption schemes.
6. Both the person, who issues the forged or false documents, and the person, who proposes money in exchange for forged or falsified documents, are subject to criminal and/or administrative liability. The punishments are stipulated in article 358 of the Criminal Code of Ukraine.<sup>461</sup>

Article 172 of the Code of Ukraine on Administrative Offenses<sup>462</sup> provides for liability for violation of restrictions on receiving gifts, violation of requirements for prevention and settlement of conflicts of interest, and failure to take measures to combat corruption.

Most of the sanctions of these articles provide for liability in the form of a fine from 50 to 2,500 tax-free minimum incomes of citizens, as well as the application to the violator of an administrative penalty in the form of confiscation of money received as a result of an administrative offense and/or the right to hold certain positions or engage in certain activities for a period of 1 year.

In the Criminal Code of Ukraine<sup>463</sup>, civil servants will be punished for corruption under the following articles:

Article 354. Bribery of an employee of an enterprise, institution or organisation

Article 364. Abuse of power or official position

Article 365-2. Abuse of authority by persons providing public services

Article 368. Acceptance of an offer, promise or receipt of an unlawful benefit by an official

Article 369. Offer, promise or provision of an unlawful benefit to an official

Depending on the type of abuse, it is punishable by a fine of 100 to 250 tax-free minimum incomes of citizens or imprisonment for up to 10 years with confiscation of property.

If you are a government official involved in corrupt schemes, the penal framework prescribes a prison sentence and suspension from taking up a government position for 10 years. A civilian proposing money to have someone forge a document to circumvent mobilisation is held criminal liable and receive a prison sentence. According to Article 332 of the Criminal Code of Ukraine, illegal transportation of persons across the state border of Ukraine is punishable by imprisonment for a term of three to nine years with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years with confiscation of property.

Article 335. Evasion of conscription for military service, military service by conscription of officers - is punishable by restriction of freedom for a term of up to three years.

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<sup>461</sup> Ukraine, *Criminal Code, Article 358, Forgery of documents, stamps, seals or letterheads, and sale or use of forged documents, stamps and seals*, 4 June 2021, [url](#)

<sup>462</sup> Ukraine, *Code of Administrative Offenses, Article 172, Violation of the rules for the use of measuring equipment*, 7 December 1984, [url](#)

<sup>463</sup> Ukraine, *Criminal Code*, 4 June 2021, [url](#)

Article 336. Evasion of conscription for military service during mobilisation, for a special period, for military service following the conscription of reservists in a special period is punishable by imprisonment for a term of three to five years.

Article 337. Evasion of a conscript, reservist from military registration after a warning issued by the relevant head of the territorial recruitment and social support centre, heads of relevant bodies of the Security Service of Ukraine, relevant units of the Foreign Intelligence Service of Ukraine, - shall be punished by a fine from three hundred to five hundred tax-free minimum incomes of citizens or by corrective labour for a term of up to one year.

7. A person liable for military service, who is detected as involved in corrupt schemes to avoid mobilisation, may not be mobilised immediately, as the procedure is based on the court decision. During the process, the accused is placed in pre-trial detention waiting for the case to be presented before the court. The accused is not subject to mobilisation during pre-trial detention. In most cases, suspended sentences and probations are given, but the accused is still liable for mobilisation after the court decision. Alternatively, the convicted person may be subject to government observation for a period of 2-3 years. If a person is under observation, he may still be mobilised. The source is not aware of any cases where a person liable for military service has been given a prison sentence for being involved in corruption to avoid mobilisation.
8. Persons, who are convicted and sentenced for corruption, have the right to appeal the court decision. According to the interlocutor, the convicted person has access to a fair and transparent trial.

### **Mobilisation procedures**

9. It is the normal procedure for recruitment that persons being summoned receive a notification letter, that must be signed upon receipt. The letter must be handed over physically by a military official and cannot be handed over to anyone else than the intended recipient, e.g. through a relative. There is no electronic procedure for receiving and signing the letter. That procedure is uniform across the country.
10. The Ukrainian military mobilises different profiles, according to which categories of services, professions or expertise there is needed. For instance, the military is in charge of a list of psychologists, and if there are periods of shortage, psychologists may be summoned. The source was not aware of the procedure for low-level personnel. Moreover, artillerymen are only recruited amongst those who hold a relevant educational degree. The source underlined that people die in the army every day and that the need for new manpower persists. Also, people can be useful in other positions, or they are placed in the reserve waiting for further mobilisation.

11. According to the source, the definition of ‘forced recruitment’ is unclear because, according to the Constitution of Ukraine, it is an obligation to accept mobilisation when being liable for military service. Conscientious objection is not an option, and avoiding mobilisation is criminal. In that sense, all mobilisation is forced. The source mentioned that there are examples of forced mobilisation and that you cannot be exempted from mobilisation, referencing that persons liable for military service cannot wish not to serve in the military. In such cases, people are mobilised.
12. There are examples of people being subjected to violence in relation to forced mobilisation, however, it does not happen often.
13. According to the source, mainly motivated persons were mobilised in the beginning of the invasion. The source opined that if a serviceman is not motivated when being mobilised, s/he will become motivated through mentoring and training by the military commander. If someone is reluctant to handle weapons, there is an option to be appointed to a different position in the military that does not include weapon handling. Some military servicemen who are against the use of weapons may be placed on the third line.
14. Only a small amount of persons are mobilised to serve at the frontline.
15. Some persons who are liable for military service can evade mobilisation by moving to other towns or addresses than where they are registered. The source opined that the military does not spend their resources on searching for concrete people who are hiding to avoid mobilisation. However, people will be judged by the society for trying to evade mobilisation. The source exemplified that people verbally insulted and considered cowards.
16. According to the source, the length of service in the army varies depending on the person’s military rank. A private soldier may serve for a maximum of three years. A junior officer may serve for three to five years and an officer for five to 10 years. According to the source, there have recently been demonstrations in Kyiv and other regions of Ukraine by mothers whose sons have been serving for 1.5 year under the invasion. The source made a reference to three news articles.<sup>464</sup>

### Conditions

17. Military leave during martial law is regulated by the Law of Ukraine About social and Legal protection of military personnel and their family members<sup>465</sup>. In the law, there are different types of leave for personnel and mobilised military:
  - The main leave is no more than 30 days per year. It is provided in parts - no more than 15 days at a time.

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<sup>464</sup> Suspilne.media, *Wives of soldiers from Ternopil demand consideration of the bill on demobilization*, 27 October 2023 (unofficial translation), [url](#); Suspilne. Media, *"It's time for others." In Dnipro, wives of soldiers demanded specific terms of mobilization and rotations for soldiers*, 12 November 2023, [url](#); Espresso.TV, *In the cities of Ukraine, the wives of soldiers who have been fighting for more than 1.5 years held pickets demanding demobilization*, 27 October 2023, [url](#)

<sup>465</sup> Ukraine, Verkhovna Rada, *Law on social and legal protection of military personnel and their family members*, 20 December 1991, [url](#);

- Leave for family reasons and for other important reasons - no more than 10 days.
  - Leave for female servicemen in connection with pregnancy and childbirth.
  - Childcare leave until the child reaches the new age of three. If home care is needed, no more than until she reaches the age of six. If both parents are military personnel, such leave is granted to one of them at their discretion.
  - Leave for treatment in connection with an illness or for treatment after an injury (contusion, trauma or mutilation) according to the opinion of the military medical commission with preservation of financial support. The duration of such leave is from one to four months (excluding weekends). Treatment abroad cannot exceed 12 consecutive months.
18. The length of the leave may vary in time and frequency. In practice, it is generally difficult to be granted leave from the military, as it may depend on the relationship with the commander and the situation at the frontline.
19. During the mobilisation training before being stationed, servicemen are quartered in military bases with basic living conditions, such as access to shower and food. There is a detailed order of the Minister of Defence of Ukraine<sup>466</sup> on the approval of the Procedure for equipping the Armed Forces of Ukraine with tableware, equipment and inventory for wartime. According to this procedure, in addition to units and military units of active troops, the following are provided: units and military units that are withdrawn for rest or re-formation; formations and military units that are newly formed and sent to active troops; parts operating in the field.

### **Punishment of military evaders and deserters**

20. Evasion and desertion is punishable by law as it may compose a criminal and/or administrative offense. A case on draft evasion will go to courts and the perpetrator is fined by 3,000 hryvnias or with a suspended prison sentence from one to three years and may become subject to observation.
21. Desertion is a crime stipulated by Article 408 of the Criminal Code of Ukraine. It occurs in the arbitrary leaving of the military unit or service of the place of destination to desert military service, as well as failure to appear with the same service in case of assignment, transfer, from a business trip, vacation or from a medical institution. For committing desertion during martial law, responsibility is provided in the form of deprivation of liberty for a period of five to twelve years.
22. Article 336 of the Criminal Code of Ukraine stipulates that evasion of conscription for military service during mobilisation, for a special period, for military service following the

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<sup>466</sup> Ukraine, Міністр Оборони [Ministry of Defence], Про затвердження Порядку комплектування столово-кухонним посудом, обладнанням та інвентарем Збройних Сил України на воєнний час [*On the approval of the Order of stocking with tableware, equipment and inventory of the Armed Forces of Ukraine for wartime*], 30 October 2012, [url](#)

## UKRAINE - MOBILISATION

conscription of reservists in a special period is punishable by deprivation of liberty for a period of three to five years.

23. Generally, pro-Russian persons in Ukraine are considered as enemies by society. However, the high number of elderly Ukrainian persons who may be Russian-minded as they lived in Ukraine under the Soviet-era are more tolerated in Ukraine. The Security service of Ukraine hold a list of persons who have collaborated with the Russians.
24. Those who escaped from mobilisation and military deserters are faced with negative judgement from society.

## Legal Hundred

Meeting, Kyiv, 2 November 2023

### About the source

1. *The Legal Hundred is an NGO that provides legal assistance to members of the Ukrainian armed forces and their families. The lawyers of the organisation assist more than 3,000 military personnel, veterans, and their family members every month. The NGO cooperates with the UN, the General Staff of the armed forces, the Ministry of Veterans Affairs, the Ministry of Defence, and other organisations. Legal Hundred was founded in 2014 as a group of volunteer lawyers on Facebook who provided assistance to wounded participants of the Russian-Ukrainian war in military hospitals. In January 2015, Legal Hundred was registered as NGO.*

### Changes to legislation on evasion of and desertion from military service during mobilisation since January/February 2023

2. Since January/February 2023, there have been changes in legislation on how to be demobilised from military service.
3. The source had no information on any other major changes to legislation on draft evasion and desertion since January/February 2023.

### Recruitment procedures and forced mobilisation

4. The process of mobilisation is heavily regulated and the military recruitment centres are obligated to follow the legislative rules. A uniform recruitment procedure pertains to all the military recruitment centres. The same recruitment procedure applies for mobilised persons and volunteers. If a person has been summoned to appear at the military recruitment centre, he has to appear within the time limit specified in the summons. A summon must be presented in person and signed. If a person fails to show at the military recruitment centre after having been summoned, he can be issued a fine. According to the source, it happens in practice. After having paid the fine, the person still has to come to the military recruitment centre. The source elaborated that a person is prosecuted if he does not appear within the time limit set in the summon. If it was a summon to clarify data or undergo a medical examination, a fine in the amount of 30 to 50 non-taxable minimum incomes of citizens is imposed on the person (Code of Ukraine on Administrative Offenses). If it was a mobilisation order, draft evasion is punishable by imprisonment for a term of 3 to 5 years (Criminal Code of Ukraine).
5. If the military recruitment centres do not follow the procedures of mobilisation, the individual can hand in a complaint. According to the source, the procedures are mostly followed in practice. The source explained that there are different procedures on how to summon individuals for mobilisation, but the source had no more information on these procedures.



6. Forced mobilisation is more prevalent presently 1,5 years into the full-scale invasion than previously. According to the source, there are examples of people being forced into mobilisation using violence, but these cases has not been proved. Legal Hundred have received calls from relatives of mobilised persons, who claim that their relative have been forcefully mobilised, but there is a lack of documentation and access to witnesses in these cases. The source mentioned that there are cases in the media as well, but that the cases are not always checked.
7. Regarding regional differences in forced mobilisation, the source had heard of more examples from the western part of Ukraine; however, the information has not been verified. The source mentioned that there are also examples of forced mobilisation in the eastern part of Ukraine, and the source was of the opinion, that the prevalence of forceful mobilisation is the same across the regions.
8. The source knew of people who have been rounded up on the streets to have their military status checked after which they have been presented with a summon to appear at the military recruitment centres with all their documents for mobilisation.

### **Statistics on mobilised persons**

9. There are no official statistics on the number of persons mobilised to serve in the Ukrainian army as it is considered a state secret. According to the source, the Ukrainian president and other politicians had announced that somewhere between 1 – 1.2 million had been mobilised to the army, but the exact official number has not been disclosed.
10. Regarding regional differences in mobilisation, the source explained that it is difficult to get an actual overview of from where people are mobilised. Legal Hundred receives calls on their legal hotline from all the regions and, according to the calls, they see more people mobilised from some regions than others. There is also a difference in the number of persons mobilised in bigger and smaller cities. In the smaller cities, there are not as many people as in the bigger cities and the military recruitment centres know who to mobilise as opposed to the bigger cities where it is more difficult for the military recruitment centres to find the individuals who should be mobilised. The source did not believe that there is a difference in the number of mobilised people when looking at the different regions.

### **Persons residing abroad**

11. Men and certain women with a specific profession living abroad are obligated to approach the Ukrainian embassy in their country of residence and register their military records so they can be called for military service, if needed. However, according to the source, most people fail to show at the embassy for registering and it is difficult to locate them. The embassies provide the information to the military recruitment centres, but the source was not aware of the details of the procedure after this.

### **Foreign nationalities residing in Ukraine**

12. Foreign nationalities residing in Ukraine are not subject to mobilisation, as they do not hold a Ukrainian citizenship. Foreign nationalities can join the military, but only on a voluntary basis after having signed a contract. The source mentioned that there are a lot of foreigners serving in the Ukrainian army on a voluntary basis, and that they are respected because they fight against the Russian Federation.

### **Dual citizenship**

13. A person with dual citizenship is only recognised as a Ukrainian citizen and is therefore subject to mobilisation despite of also holding another citizenship. This pertains to all dual citizens. The source doubted that the military recruitment centres check everybody for dual citizenship.

### **Men beyond the age category of 18-60**

14. According to the law on conscripts, men between the age of 18-26 are subject to regular conscription in peace times. During martial law, the rules of conscription are not in effect. Instead, men, who have reached the age of 27, are mobilised. Men younger than 27 are not mobilised, unless they have previously been conscripted and therefore have military training or experience; and also in cases where the person was transferred to the list of conscripts for certain reasons (health, etc.). However, they can still sign up for mobilisation on a voluntary basis. They are not allowed to leave Ukraine despite of being outside the age for mobilisation and not having signed up on a voluntary basis.
15. Men beyond the age of 60 are not mobilised. However, there are examples of people who continue to serve or who join the army on a voluntary basis after having turned 60.

### **Stateless person residing in Ukraine**

16. Stateless persons residing in Ukraine are not subject to mobilisation, as they do not hold a Ukrainian citizenship. As with foreign nationalities, stateless persons can join the military, but only on a voluntary basis after having signed a contract.

### **Women**

17. Women who have acquired a medical or pharmaceutical speciality are necessarily included into the military records and can therefore be mobilised, as everybody in the records are subject to mobilisation. Women of other specialities, for example, the source mentioned chemists, engineers, computer engineers, biologists, food technologists, are included into the military records only at their own will. Female doctors and pharmacists are mentioned in the Law of Ukraine "On Military Duty and Military Service". The list of other specialties is in the Order of the Ministry of Defense of Ukraine dated 11.10.2021 No. 313.
18. According to the source, mobilisation of women is commonly not enforced in practice, but there are examples of women being mobilised on a non-voluntary basis after February 24, 2022, where mobilisation was initiated.

### **Exemption from mobilisation**

19. According to Ukrainian law, it is possible to apply for exemption from mobilisation on certain grounds. The source mentioned health reasons, having sick relatives and having three or more children as exemption grounds.
20. A new category of exemptions grounds has been introduced in May/June 2023 pertaining to individuals, who have had a family member die in combat, e.g. a father or a brother. This category also has influence on who can be demobilised from the army as well and exempted from mobilisation. The source stated that the procedure on this mostly works in practice and that they have not heard of any problems.
21. An application for exemption must be handed in during the mobilisation procedure and before the final decision to mobilise someone has been made. The process of mobilisation can be long.
22. After a decision of mobilisation is made, it is difficult to be exempted. In such a situation, the case must be presented in court. However, according to the source, it is also possible to be exempted outside of court after having been mobilised e.g. if a soldier became a father for the third time. In such a situation, the claim for exemption must be handed in to the commander of the soldier, incl. proof of the claim. The processing time is usually a couple of weeks. There are examples of the rules on exemption not being followed in practice by the commanders. Legal Hundred have received calls from individuals who claim that their rights have been violated in the exemption procedure. In such a case, it is possible to hand in a complaint to the higher commander in charge or in court. The source stated that there are several problems faced in the military during the exemption procedure e.g. requirements of documents that are not necessary, incorrectly interpretation of the norms of legislation etc. There are also situations when the documents submitted to the military are lost and this delays the exemption process, since everything has to be started from the beginning.
23. According to the source, rules of exemption is mostly respected, however, there were examples of the heads of the military recruitment centres who broke the law to mobilise people. It is not a systematic problem, but it happens often. For example, they may refuse to grant a deferment from mobilisation without appropriate grounds. In addition, at the beginning of the full-scale invasion, mobilisation took place without conducting a medical examination of the conscripts, but now the situation has improved. The source explained that there are regional differences in how the rules are followed by the military recruitment centres in practice. In rural territories there are more examples on the rules not being followed as people have less instruments to protect their rights compared to people living in the bigger cities (access to lawyers, media involvement etc.). The source mentioned that Legal Hundred had received most claims of rights not respected in three specific military recruitment centres in the western part of Ukraine. Legal Hundred notified the Minister of Defence, who visited the centres to inspect the situation, which led to a change.

### **Deferment of military service**

24. There have been no major changes in legislation since January/February 2023 on deferment of military service. According to the source, there has been introduced a couple of draft law proposals, but none were voted in parliament or signed by the president.
25. When receiving the status of deferred from military service, a document that states the legal right of deferment is issued. If the deferment is based on work, the document is issued by the Ministry of Economics. If the deferment is based on studies, the document is issued by the Military commissions.
26. According to the source, the rules on deferment are generally respected in practice; however, there are examples of the opposite.
27. There are regional differences in how the rules are followed by the military recruitment centres in practice in the same way as the rules of exemptions. In rural territories, there are more examples on the rules not being followed.

### **Conditions during military service**

28. The law on mobilisation does not regulate for how long people must serve in the military during martial law. According to the source, there were many rumours on this, based on information from the mobilisation in 2013-2015, where people served for up to a year and a half, but there is no official information on the length of service. In 2013-2015, the president of Ukraine decided the length of military service. The source had no information on people being demobilised at present day.
29. The commanders assess which military professions they need and decide where people should serve. There is a range of different functions in the military, which needs to be staffed. When deciding who should take up a position at the front, the commanders assess which services are needed, e.g. ground soldiers, artilleryists etc. The source explained that people are mobilised according to their expertise and specialisation, e.g. to the air forces or to the ground forces, and not to the front per se. There are rotations in battalions serving at the front and the same professions currently serving at the front line can also be placed in a reserve waiting to serve at the front later. There is no appeal option on the placement of service. If someone refuses to follow orders on placement, it is considered a crime that is punishable by law.
30. Conscripts have the right to take leave from service in certain situations. According to the source, there are three types of leaves. 1) annual leave, 2) leave for family reasons, e.g. if someone gets married or a new child is born, 3) if they need medical treatment. It is not possible to go on leave from service because of exhaustion. Everybody is exhausted, because they have been spending a lot of time at the front line. The rotations in battalions are used to accommodate this exhaustion. The military commander decides if a serviceman can be allowed to take leave, based on one of the three above-mentioned grounds. They take into account the number of people serving in their battalion when making the decision if someone can take leave. There is no appeal option if an application

to go on leave is rejected by the commanders. According to the source, the system works; however, there can be some waiting time after applying.

31. Military training is mandatory for persons mobilised, but the length and nature of training depends on previous military experience as many people have already been through military training during conscription. During martial law, the training is generally shorter compared to training in peace times. However, according to the legislation, persons who have not previously completed military service must complete a course of basic military training lasting at least one month. Legal Hundred has received many complaints from people stating that they have not received enough military training; however, it is the impression of Legal Hundred that the training procedure is mostly compliant with the law.
32. The source had heard of persons mobilised complaining about the conditions during service, describing the conditions as horrible, while others stating that the conditions are as to be expected in the army. During service, there is access to food; medicine etc. and the persons mobilised are quartered during service. Quartering conditions in terms of housing depends on the area, in which they are stationed. In some areas they live in old apartment buildings, while in other areas they are living in trenches, the forest etc. e.g. in the Bakhmut area. It is also a matter of safety. There are not enough weapons, ammunition and uniforms provided in the military, and therefore servicemen must buy their own uniforms, as they are only provided with one uniform for summer and one for winter. The source mentioned that volunteers collect money to assist the servicemen in buying the proper garments. Volunteers also provide food to the soldiers serving in the military.
33. Legal Hundred often receives complaints from servicemen, who have been physically abused by their commanders during service. The source stated that it is not a systematic problem, but it happens. According to the source, it happens mostly to people, who are generally stigmatised in the society, e.g. people from the LGBT community and other nationalities, e.g. Romas. There are also examples of people belonging to these minorities, who are treated well in the military and the source is not of the opinion that there is systematic discrimination against minorities in the military. To the source's knowledge, there is no discrimination in the military against people, who are perceived as pro-Russian because of their place of origin or dual citizenship. It exists between civilians, but not in the military.
34. It is possible to hand in a complaint of abuse to a higher commander, but in most cases, an investigation is not initiated as higher commanders do not wish to do so. It is also possible to hand in a complaint to the military police. Legal Hundred has proposed to the chief commanders that people, who have been victims of e.g. sexual harassment in the military, should be able to call the General Staff of the armed forces, as the complaint procedure at the higher commanders does not always work, which is a problem. Furthermore, the source specified that the information in the complaint will be shared with the commander in question by the higher commander, so he will be informed that someone has initiated a complaint case against him.

### **Draft evasion and desertion**

35. Legal Hundred advocated against law amendment no. 8271 from January 27, 2023, regarding the legal liability of military offences committed during martial law introducing harsher punishments for servicemen during martial law. Legal Hundred expected that criminal cases against servicemen would increase because of the law. Before the law amendment was passed, punishments for draft evasion and desertion were suspended. As criminal cases are usually in process for 2-3 years, there has not been enough time to evaluate on the law amendment's effect in practice, but the source has heard of examples of punishments being suspended also after the law came into effect. According to the source, the harder punishments will not influence people's decision to evade or desert from military as the law on this was also very strict before the law amendment.
36. All court decisions are published in Ukrainian, but to the knowledge of the source, there is no collection with statistics in these cases.
37. The source had not heard of negative societal attitudes or reprisals from the community against draft evaders or deserters. In the beginning of the war, many were imprisoned because they did not want to join the military, but they were eventually released and went to fight in the war after which they were still respected in the community. The source also mentioned that the community would usually not have information on people, who have deserted from military service, as the person himself and his military colleagues only know this.

### **Corruption**

38. Legal Hundred has not focused on collecting statistic on the level of corruption in the military, but they have received some complaints on corruption on their legal hotline. The complaints were mostly regarding the MMCs and their decisions during the mobilisation procedure. According to the source, such complaints are common and there are no regional differences, as it happens everywhere. There are also examples of complaints on corruption in the military recruitment centres.
39. According to the source, the problem of corruption in the military medical commissions were discussed at the highest political level and investigated by relevant actors. The heads of the MMCs and the heads of the military recruitment centres have been changed to prevent further corruption. This change has led to people being afraid to pay a bribe to the new heads of the military medical commissions, as they fear investigation. All parties involved in a corruption case will be prosecuted.
40. There is no special prosecution procedure on corruption during martial law. Crimes related to corruption are punished very hard, and mild sentences are not used in corruption cases.

### **Conscientious objection and alternative service**

41. According to the source, there are different opinions about conscientious objection in the Ukrainian society. Some believe that in such a difficult time for the country, everyone is

obliged to defend it. However, there is another category of people who have a different opinion and who do not condemn objectors.

42. The source opined that there are no societal negative attitudes or reprisals against relatives of conscientious objectors.



## Ukrainian Non-Governmental Organisation

Meeting, Ukraine, 3 November 2023

### About the source

1. The Ukrainian local NGO that has worked in Ukraine with among others distributing humanitarian aid from international partners to refugees, asylum seekers and internally displaced persons (IDPs). It has offices in Ukraine and its neighbouring countries and work with monitoring, conduction of surveys and providing legal assistance.

### Legislation

2. According to the source, the main changes in the legal framework on mobilisation since August 2023 relate to increasing the degree of involvement of people with disabilities and certain diseases in mobilisation. Until 18 August 2023, when the order "On Approval of Amendments to the Regulation on Military Medical Examination in the Armed Forces of Ukraine"<sup>467</sup> was introduced, people with disabilities were generally not considered to be subject to mobilisation and were therefore exempt from it. However, the guidelines of the Military Medical Commissions (MMC), which define the criteria for disability in health assessments, were amended in September 2023.
3. The source exemplified that before April or May, a person missing a smaller limb, e.g. a finger or similar, would have been categorised as a person with disability and therefore exempted from mobilisation. After the specification of the rules, such a person would be considered eligible for mobilisation.  
Similarly, people, who lost an arm or a leg during battle, was exempted from further service and demobilised before the rules on determining the criteria of disability was specified. However, after the specification of the rules a person is obliged to return to military service after rehabilitation, despite of having lost a part of a vital limb, e.g. an arm or a leg during battle.
4. The changes also apply to certain illnesses that previously would have led to exemption from mobilisation, such as diabetes, certain heart conditions etc. A full list of changes is described in the Order "On Approval of Amendments to the Regulation on Military Medical Expertise in the Armed Forces of Ukraine"<sup>468</sup> of 18.08.2023. According to the source, people with certain illnesses are now considered eligible for mobilisation, however, the person will not go to the frontline, but perform other military tasks such as transportation, office work etc.
5. According to the source, the MMCs are actively enforcing the new regulations.

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<sup>467</sup> Ukraine, Міністерство Оборони [Ministry of Defence], *Наказ № 402, Про затвердження Положення про військово-лікарську експертизу в Збройних Силах України* [Order No. 402, On the approval of the Regulation on military medical examination in the Armed Forces of Ukraine], 14. August 2023, [url](#)

<sup>468</sup> Ukraine, Міністерство Оборони [Ministry of Defence], *Наказ № 402, Про затвердження Положення про військово-лікарську експертизу в Збройних Силах України* [Order No. 402, On the approval of the Regulation on military medical examination in the Armed Forces of Ukraine], 14. August 2023, [url](#)

6. In January 2023, another amendment to the legislation was introduced, which reduces the ability of public officials to cross the border, e.g., representatives of the authorities and representatives of regional, city and village councils. In general, if a person works as a mayor, deputy mayor, or similar, it is almost impossible to cross the border and leave the country. According to the source, after the amendments to the legislation, it is only possible to obtain a business trip abroad from the state institution where the person works.
7. Furthermore, the rules on reservation of employees from international organisations, allowing employees to be exempted from mobilisation while employed by the organisation, became stricter. The source is working as an implementation partner that falls under the exemption criteria in Resolution No. 76 of the Cabinet of Ministers. The resolution lists the types of organisations and NGOs that can be granted the permission of exempting male staff from mobilisation. However, according to the source, the resolution is not enforced in practice, and the resolution induces challenges. Even though a year has almost passed since the resolution was introduced, the exemption status of the organisation is still pending. This makes the work of the organisation challenging and problematic, because a large part of the work consists of monitoring, advising and consulting, which requires a movement across regions. Almost on weekly basis, the military holds back employees at checkpoints between regions to inspect specific documents. This procedure causes problems for the employees. There are examples of people being brought to the military offices as well. According to the source, the same problems are uniform across NGOs and are not exclusive for the source's organisation.
8. According to the source, even UNHCR has been exposed to the same level of challenges; they had their employees reserved for exemption in autumn 2023, although the resolution is from February 2023.
9. Following the adoption of the resolution, the ministries and public officials did not have a structure in place and did not have the capacity to process all the applications of reservations from the international organisations and NGOs, even though high-level government officials expressed a political goodwill to resolve the issue. However, from autumn of 2023, the handling the applications seems to proceeded more smoothly, and the ministries seem to have increased the knowledge and capacity, at least for the international organisations, such as UNHCR.
10. Nevertheless, there are some fundamental challenges pertaining to the NGOs, specifically, due to wording of the resolution. For instance, in the resolution it is stated that the staff eligible for exemption must have a contract for a minimum of six months. However, most NGOs sign contracts expiring at the end of the year, which make up less than six months, if someone is employed after mid-year. Consequently, organisations cannot send an application for exemption to the ministries, as it would not be approved, because the staff would have contracts with less than six months duration.
11. This clearly affects the work of NGOs, especially those operating in border regions where checkpoints are more frequent. The military often does not allow staff to check military documents. If any discrepancies are found or if the documents provided are questioned, the documents will be subjected to a comprehensive scrutiny. In this case, the employee

may have to come to the Territorial Recruitment and Social Support Centre (TRC). After February 24, 2022, every male person aged 18-60 had to update their military registration data, but the majority did not do it, and this is one of the reasons for referring people to the TRCs. The source explained that it is a big loss for organisations when employees with certain knowledge or working in a crucial position, such as project managers, are mobilised at the checkpoints. It is about the fact that the personnel of the organization (as well as all men) are checked during the performance of their official duties.

12. Last winter, the primary risk pertaining to the operationalisation of NGOs consisted of electrical blackouts that could delay the work of the NGOs. This year, the NGOs are working with a constant threat of mobilisation of its male employees. For instance, the source mentioned an example of a driver of the NGO who was apprehended during his lunch break at a restaurant and mobilised to serve in the military. In the evening, while the driver was waiting to be escorted in a bus from the local recruitment office to the military barracks, he managed to contact the lawyer of the organisation who advised that the mobilisation procedure was illegal and thereby could secure his release. However, the remaining people in the bus were not released because they did not have any legal aid at hand. According to the source, this example is a symptom of something happening on a broader level.
13. The problems of forceful and arbitrary mobilisation are not exclusive for the NGOs, but is widespread for the whole society.

### **Document requirements**

14. According to the source, news are circulating in the medias reporting that changes in the document requirements for border crossing will take place. However, the source did not notice any major changes in the requirements. NGOs that are providing counselling to people on border crossing are often limited in their capability to offer proper advice on the document requirements, as the authorities have one set of rules based on publicly available resolutions and another set of internal guidelines or regulations that are not disclosed for the public. Consequently, people who aim to cross the border are sometimes denied crossing because they are not in possession of the documents required by the authorities. These people along with the NGOs consulting them are inadequately informed about the document requirements.

### **Digital mobilisation**

15. There have been public discussions on the digitalisation of the mobilisation procedure. The public debate centres on the argument that persons liable for military service may be hindered from avoiding mobilisation with a digital system in place, as is the case presently. However, it has not been approved nor implemented at the time of this meeting. However, according to the source, the discussions induce concern amongst the young population in Ukraine, who tend to hide at home being afraid to go out at night and leave the region, as they fear being stopped at checkpoints between the regions.

### **Mobilisation of women**

16. Pursuant to Article 37 in the law 'On Military Duty and Military Service'<sup>469</sup>, all women with a medical or pharmaceutical education, e.g. pharmacists, doctors, health personal etc., are obliged to register at the military recruitment offices. However, in practice, women are not required to do active military service; they can join only on a voluntary basis.
17. The process of registration is handled by the workplace, who must provide information on female staff to the military recruitment centres. If the workplace fails to register a woman, there are in practice no repercussions for the person itself. However, the workplace risks being charged for committing an administrative offence for not registering the person.

### Men between the age of 18-60

18. According to Article 15 of the Law 'On Military Duty and Military Service'<sup>470</sup>, all men between the age of 18 and 60 are liable for mobilisation. Beyond that age category, no one is liable for mobilisation and it can only take place on a voluntary basis.
19. The source pointed to the special regulations for men between the age of 18 and 27. Due to the martial law and the mobilisation announced on 24 February 2022, regular military service (conscription) is suspended for males aged between 18 and 27. This means that men aged between 18 and 27 are not mobilised, unless he had already completed military service (conscription) before 24 February 2022. In such a case he would have been transferred to the register of reservists and, thus be eligible for mobilisation.
20. Students attending a higher education is offered the possibility to sign up for so-called military classes as an additional and voluntary part of their education. If a person completes the military training as part of the education, that person will be transferred to the register of reservists as junior officer and, thus be eligible for mobilisation. Female students also have the right to study at military departments and receive the same military rank as male students. Mobilisation is mandatory for people who have been trained at a military department, regardless of their gender, as they are liable for military service.
21. Nevertheless, neither of the above-mentioned categories are allowed to leave the country during martial law.
22. The source did not have any knowledge about the number of people that has been mobilised.

### People residing outside of Ukraine

23. The source did not have any information about the situation of mobilisation of Ukrainian nationals permanently residing outside Ukraine. According to the source, there has been a political discussion about this subject. Allegedly, the topic has been brought up in bilateral discussions between the president of Ukraine and the neighbouring countries. However,

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<sup>469</sup> Ukraine, Verkhovna Rada, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, [url](#)

<sup>470</sup> Ukraine, Verkhovna Rada, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, [url](#)

the source believed that no Ukrainian national residing outside Ukraine has been summoned. However, the source would not exclude that if a Ukrainian national was part of a criminal investigation, he could risk deportation to Ukraine following mobilisation.

### **Foreign nationals and stateless persons living in Ukraine**

24. Foreign nationals living in Ukraine are not subject to mobilisation. The only way they can join the Ukrainian military is on a voluntary basis.
25. According to the source, stateless people cannot be summoned to mobilisation, since they do not have any legal documents. The source mentioned an example of a person who neither had passport nor identification documents, but who was still summoned to appear at a recruitment office. However, since the person did not have any documents, it was not possible for him to be mobilised.

### **Dual citizenship**

26. The source stated that Ukrainians with dual citizenship are liable for mobilisation. Ukraine does not recognise dual citizenships, thus such persons are only considered Ukrainians by the authorities.
27. The same applies when a person's second nationality is Russian, such a person would still be mobilised to the military. However, the source assumed that if a person has dual Ukrainian-Russian citizenship, he would be scrutinised more thoroughly by the military and security services with aim of detecting possible sympathies with the Russian Federation.

### **Recruitment procedures**

#### Receipt of summons

28. According to the source, when a person is summoned for mobilisation, the recruitment officers must deliver the summon to him personally, and the person must sign for its receipt. The summon states that a person must appear at the military recruitment offices, where documents will be examined and military information may be updated, e.g. if he has certain skills relevant to mobilisation. The examination will include a crosscheck of previously completed military service and whether the person has achieved a military specialty. If a medical examination has not been completed prior approaching the recruitment office or if it was completed a long time ago, the person must undergo a medical examination at the Military Medical Commission.
29. After the initial stage at the recruitment office, the persons are most often allowed to return home with a notice stating when he must appear at a military barrack at a later date, depending on when he is needed for mobilisation. However, if the officers deem that the risk of fleeing is high, the officers may accompany the person to his house allowing the person to pack his personal belongings and to mobilise him right away. In other cases, if the person has a military specialty that is coveted, he might be enlisted right away as well. However, the person is allowed to go home and pack his personal belongings.

30. A person can receive a summon for mobilisation several times, because they are sometimes automatically handed out on the streets. However, when a person has finished the check at the military recruitment office, he will receive a note in which it is stated when he completed the check, so if the military recruitment officers stop him later, they can see that the person does not need to show up again.
- After receiving a call-up notice, a person is obliged to report to a TRC on the day specified in the notice. If the person appears on the specified day, he/she is examined as already mentioned. Based on the results of the examination, the person is either subject to mobilisation or not. If a person is subject to mobilisation, he or she receives another summons to a meeting, which specifies the date on which he or she must report. If a person fails to report to the military registration and enlistment office, he or she is held administratively liable under Article 210 of the Code of Administrative Offences<sup>471</sup>, and if the call-up notice is received after a military medical examination, the person is held criminally liable for failure to report. If a person is not subject to mobilisation, he or she is issued a certificate that must be presented during future document checks.
31. The source elaborated that when people are handed out summons on the street, it means that they must approach the recruitment office. However, it does not mean that they will be rounded up on the street and brought to the conflict zone immediately. According to the source, the military recruitment offices aim to register as many as possible in the system.

#### Procedure for exemption and deferment

32. If a person formally wants to apply for exemption or deferment, he should, in most cases, approach the military recruitment office with the relevant documents stating the reasons for exemption or deferment. However, the source explained that there are different procedures depending on the reasons for exemption or deferment. The reasons for deferment or exemption from mobilisation are contained in Article 23 of the Law of Ukraine 'On Mobilisation and Mobilisation Preparation'<sup>472</sup>. To establish each of the reasons, a person must have a different set of documents. For example, if a person has an illness that does not allow him or her to be mobilised, he or she must obtain documents from a hospital and undergo a military medical examination to confirm the illness. If one of the family members of a person liable for military service has an illness, the procedure is different: the person must collect documents confirming the illness of the family member that prevents him/her from performing his/her duties and submit an application together with these documents. The procedures may have its own peculiarities for each reason for deferring mobilisation. If, in accordance with Article 23 of the Law of Ukraine 'On Mobilisation Training and Mobilisation'<sup>473</sup>, a person is entitled to a deferral or is not

<sup>471</sup> Ukraine, Verkhovna Rada, *Кодекс України про адміністративні правопорушення [Code of Ukraine on Administrative Offenses]*, 7 December 1984, [url](#)

<sup>472</sup> Ukraine, Verkhovna Rada, *Закон України про мобілізаційну підготовку та мобілізацію [Law of Ukraine on mobilisation training and mobilisation]*, 1993, [url](#)

<sup>473</sup> Ukraine, Verkhovna Rada, *Закон України про мобілізаційну підготовку та мобілізацію [Law of Ukraine on mobilisation training and mobilisation]*, 1993, [url](#)

subject to mobilisation and has all the documents, there is no particular difference in the procedures.

33. If the situation regarding exemption changes for a person during military service, the source noted that it may be hard to be relieved from service. For instance, if a person has a specific position in the military, he would probably not be able to leave, even if there was a court decision allowing him to be exempted, unless that person could be replaced. In such a case, it would be up to the commander to decide, if he can leave.
34. Formally, it is possible to complain to a higher commander or to the court for being denied demobilisation, but most likely it will not result in another outcome.

### **Regional differences**

35. The source was not aware of regional differences pertaining to implementation of mobilisation procedures. However, according to the source, it seemed that in the city of Kyiv the methods of mobilisation were not as strict as in other regions. The source opined that people in Kyiv was aware of the rules and regulations resulting in higher abidance with rules in force and a more polite attitude at the checkpoints.
36. In other provinces, and especially in the western Ukraine, the representatives from the military recruitment offices used harsher methods towards the population.
37. Because of these regional differences, people are afraid to move between provinces as they fear mobilisation.

### **Forced mobilisation**

38. The source noted that in the beginning of the full-scale Russian invasion, mobilisation was mainly voluntary as there was a higher level of support and willingness to join the military. Similarly, many persons were relieved from service as the number of mobilised persons exceeded the military quota at the time. However, after approximately one year and when the war had dragged out, the circumstances changed in terms of the amount of volunteers and level of willingness to serve, and subsequently the military had a more urgent need of more servicemen.
39. Last winter, there were media news about the military using violent methods to force people to be mobilised, such as apprehending people on the streets. In some cases, it was a result of an aggressive response from the public towards the recruitment officers, which, according to the source, provoked the authorities to respond with more violent methods. In other cases, the military representatives were simply using violent methods to make people comply.  
The main method was forced delivery of a person to a military registration and enlistment office to check documents and determine their eligibility for military service. Information about such methods was mostly spread in private social media channels (including telegrams) and through acquaintances. Such methods were rarely covered by the media.
40. However, these examples were more prevalent in the beginning of the year. The use of violent methods has been less frequent since the spring of 2023. The last case, the source heard about, was more than four months ago.



41. Forced mobilisation most often took place in the countryside in smaller cities and villages, where people were less aware of their rights. According to the source, forced mobilisation did not take place in the bigger cities at the same level as in the smaller cities, because the inhabitants are generally better educated on their rights and are in a better position to claim their rights.
42. The source opined that the violent practices within the mobilisation procedure has stopped because those cases were flagged in the media and on social networks. The military knows that the methods were illegal, and people started to complain formally. There were also some cases where the prosecutor's office initiated a criminal case against the military perpetrators.
43. The recruitment practice is monitored by the Ministry of Defence and eventually, if they are called upon, the National Police of Ukraine. Furthermore, the State Bureau of Investigations are conducting the investigations against government officials, such as the military officers.

### **Conditions during military service**

#### Training

44. The source noted that no person is sent directly to the frontline without training, unless they have a recent military experience.
45. According to the source, people are usually trained and prepared for two-three months before they are mobilised to serve in the combat zone, in some cases longer. Selected servicemen are sent abroad to e.g. Great Britain, the Netherlands for more specific training which can last five to 10 months.

#### Duration of service

46. According to the source, there are no regulations in the legislative framework on how long someone is mobilised to serve in the Ukrainian army. Demobilisation without exemptions grounds has not been taking place. The only way a person can be demobilised is by fulfilling the official requirements for exemption, such as lack of eligibility due to health reasons or if a person has reached the age of 60 years, which is the maximum age for mandatory military service during martial law.
47. In general, it is difficult to be relieved from service. As an example, the source mentioned that in cases where a member of a person's family become sick or similar during service, it is very hard to leave the service even for a few days.
48. There are rotations in battalions, e.g. if you have been serving in Bakhmut for a period of time, you get a small break from the front. After the break, the person will be sent to another place of fierce combat.
49. There is a public discussion about introducing the possibility of demobilisation in the legislative framework, because the servicemen are getting more and more exhausted. However, according to the source, no action is taken in terms of introducing a draft law proposal.

50. It is possible to take a leave of absence, when it is possible, but it is just for a shorter period. After some days or a week, the person has to return to the military units.

### **Vulnerable profiles in the military**

51. According to the source, there could be some vulnerable groups mobilised to serve in the military.
52. The source had not heard of cases with LGTB-people experiencing problems serving in the military at all.

### **Conscientious objection**

53. The source stated that it is only possible to be a conscientious objector in peacetime.
54. If a person proclaims that he is a pacifist or that he is opposing the war, and therefore does not want to serve in the army, he will be prosecuted pursuant to the criminal code, as he would be considered a draft evader.
55. The source did not have knowledge about what would happen, when persons request to serve in the military without using weapons. According to the source, it is likely that those persons could be sent to duty other places away from the combat zones, such as kitchen service, transportation etc., however, the source could not provide more specific information on this.

### **Draft evasion and desertion**

56. The source did not have any specific knowledge about the level of punishment of military evaders and deserters. However, it was noticed that Law 8271 on Amendments to the Criminal Code of Ukraine on offenses and other legislative acts regarding the specifics of military service under martial law or combat conditions that came into effect on 27 January 2023 was enforced in practice and had had an effect. The punishment given by the courts has become harsher and the possibility of a suspended sentence has been removed.
57. According to the source, there may not be any societal negative attitudes from the local community towards evaders and deserters. Many community members would understand if a person did not want to fight or gave up fighting by deserting. There is not a general acceptance of evaders, but the source was of the opinion that many people would be able to understand if a person chose not to serve.
58. The same applies for deserters, which, according to the source, would not face any societal repercussions. This is mainly because such a person would have a high degree of respect for joining the fight in the first place, and many community members acknowledge that there are horrific conditions in the combat zones.

### **Russian mind-set**

59. If a person actively demonstrates a clear sympathy with the Russian Federation and its actions in Ukraine, the repercussions would be very strong. According to the criminal code, it is possible to prosecute a person for glorifying the so-called aggressor state, e.g.

- the Russian Federation. The authorities are actively prosecuting people for pro-Russian activities.
60. There are no collective punishment, e.g. against family members or relatives of a pro-Russian person, neither by the authorities, nor by the communities.
  61. However, according to the source, the reactions from the authorities and the communities depends on the behaviour of the person. He or she must actively exhibit a pro-Russian sympathy in order to be prosecuted. The source did not believe that simply the assumption of a person being pro-Russian, such as dual Russian citizenship, previous Russian residence, or language, would lead to any repercussions.
  62. Moreover, the source assumed that if a person who was perceived to have a Russian mind-set took part in the fighting at the Ukrainian side, that person would be respected for his actions.

### **Conditions during mobilisation**

63. Only persons liable for military service are mobilised to the front. Persons liable for military service are persons in the reserve to man the Armed Forces of Ukraine and other military formations for a special period, as well as to perform work to ensure the defence of the state. The source emphasised that only persons liable for military service are mobilised, but it is possible to participate in the armed forces voluntarily in volunteer battalions.
64. It is possible to apply for service outside the combat zone. The source did not elaborate on what the criteria is or how the procedures are.

### **Corruption**

65. There is corruption in the mobilisation procedures, but it is not widespread. According to the source it is impossible to describe the level of corruption in terms of percentage.
66. The most common way to avoid mobilisation is to establish permanent care for relatives, as well as corrupt bribery schemes.
67. According to the source, military documents are not forged
68. The source opined that forgery or illegal issuance of background documents most often happens within the medical institutions.
69. According to the source, there are not any regional differences in the prevalence of corruption.
70. The source stated that forgery of documents is a criminal offense in Ukraine and that cases are processed within the judiciary system.
71. The source noted that there are frequent inspections of TRCs as a prevalent anti-corruption measure.

## An international organisation

Online Meeting, 8 November 2023

### About the source

1. The international organisation has insight on legislation but is not conducting human rights monitoring inside Ukraine.

### Legislation and practice regarding exemptions:

2. Overall, there have not been any major changes to the legislation regarding mobilisation since January 2023. However, Resolution no. 76 on the exemptions of persons from mobilisation, which enables NGO staff to obtain an exemption based on the importance of the organisations' role and their functioning during martial law, has changed. Many international organisations in Ukraine such as United Nations (UN) organisations and others have sought exemption for its staff engaged in the humanitarian response. Beyond that, the international organisation has not seen any change in the exemption rules.
3. The international organisation is not acquainted with the general procedure for applying for exemption from mobilisation, other than the procedure for local staff employed by international organisations. The staff lists are submitted collectively for the entire organisation and sent to the Ministry of Finance and the Ministry of Defence. The source mentioned that there had been some challenges during the application procedure, but could not provide more information on the details of these. However, the source was of the impression that there were some delays in terms of receiving clear guidance on how to submit the list of exemptions. Moreover, there was some hesitance from the staff to approach the military conscription offices to receive an updated military service code, which is needed in order to submit an application for exemption.
4. In addition, a military deficit code is required which indicates the type of profile, and some male staff feared that it would lead to mobilisation. The military deficit code indicates whether a person has a specialisation needed by the army. However, the source did not have information on how the codes are used in military papers. There are examples of international staff, who received summons to approach the military conscription offices and to undergo medical examination, which is part of the mobilisation process, but the source was able to obtain an exemption for the staff afterwards. However, before obtaining the exemption the staff members expressed concerns of being mobilised due to the long waiting time for the exemptions to be obtained. There were significant efforts and challenges from NGOs to obtain exemptions as well. The nature of the challenges of NGOs may have differed from the international organisations, because some local staff of international organisations are covered by the privilege and immunities of the United Nations.

5. The international organisation is not familiar with the requirements for documentation after being exempted, but referred to the RCO as most competent to inform about the documentation requirements. However, the source informed that male staff were obliged to update their personal information with the military conscription offices, and many were reluctant to approach the conscription office because that could bring them to the attention of authorities, risking mobilisation.
6. The exemption procedure for local staff of international organisations in Ukraine is centralised.
7. The international organisation could not provide more information on if anyone was rejected in their application for exemption and did not have information on the possibility to lodge an appeal of a rejection for exemption from mobilisation.
8. There are exemption rules pertaining specifically to women, who are required to register in the military register.<sup>474</sup> For example in the Mobilisation Training and Mobilisation Law there are specific categories of exemption rules pertaining to women in the medical and pharmaceutical professions. The categories of women exempted from mandatory military registration includes:
  - Medical workers who have received a deferment from military service (reserved workers)
  - Women temporarily considered unfit for military service by the Military Medical Commission due to their health, for a period of up to six months.
  - Mothers with specific criteria who are taking care of dependents.
  - Women providing permanent care to individuals in need, as per Ukrainian law.
  - Women who are spouses, daughters, or daughters-in-law of disabled persons in the I or II group, provided that there are no other able-bodied individuals available to support them.
  - Students and academic staff of educational institutions.
  - Women with close relatives who died or went missing in areas of anti-terrorist operations, under specific conditions.
  - Women already part of military or law enforcement units.
  - Volunteers who aided the military or law enforcement in anti-terrorist operations.

### **Women and mobilisation**

9. The mandatory military registration of women came into force on 1 October 2023 for women working in the medical or pharmaceutical professions (i.e. doctors, nurses and pharmacists).  
From 1 October 2023, women below the age of 60 years, who hold medical or pharmaceutical professions, e.g. nurses and pharmacists, can be called up for mobilisation if they are medically fit, which is decided by the Military Medical Commission (MMC). This category of women must register with the military territorial recruitment centres as per

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<sup>474</sup> For information on Women and Mobilisation, see section 9 - 13

changes to Article 1 paragraphs 11 and 12 of Ukraine's Military Duty and Military Service Law. Hence, this provision indicates that women must also register for mandatory service.

10. Women outside of the abovementioned category can also register on a voluntary basis in the military registries. To be voluntarily registered for military service, women, like men who are drafted, must meet the following specific criteria:
  - They must be under 60 years old, the maximum age for being in the military reserve.
  - The MMC must declare them fit for military service based upon an assessment of their health.
  - The MMC must issue a resolution from the Military Intelligence Service stating "fit for military service" or "unfit for military service in peacetime, limited fit in wartime" to determine their suitability.

Women who are eligible for mobilisation based on the health and age criteria and who have completed vocational (professional-technical), specialised secondary, or higher education and who have obtained a medical or pharmaceutical specialty are subject to military registration as conscripts. As of today, active service for them remains voluntary.

11. The international organisation does not have more information on the enforcement of mobilisation of women. However, based on information from border monitors the source received an increase in counselling requests from women seeking additional clarification on this law during the months of September and October 2023 and in particular from women from the medical and pharmaceutical professions seeking clarification on the requirements and the exemption options regulated in the Military Duty and Military Service Law.
12. The international organisation could not provide more information on the consequences for women who are liable for military service but fail to approach the military recruitment offices as required.
13. There is a lack of clarity on whether or not women liable for mobilisation can exit Ukraine, as it appears that official instructions to prevent women subjective to mobilisation from exiting have not yet been communicated to the State Border Guard Service (SBGS). According to a statement from the SBGS, there are no legal grounds to restrict the travel of women abroad, and thus the border guards currently have no procedure to verify whether or not a woman has been mobilised.  
The international organisation shared [an article](#) referring to the SBGS indicating that SBGS has not received official instructions to prevent women from crossing an international border.

### **Conditions of returned conscientious objectors, military evaders and deserters**

14. The international organisation highlighted that from periodic surveys among refugees and IDPs it appears that mandatory mobilisation is not the primary obstacle to return. The key concerns of obstacles to return pertains to safety and security issues in the occupied territories for returnees who were former residents prior the full-scale invasion and the

access to services, shelter and livelihoods. However, concerns about mobilisation have been described in the survey as an additional obstacle for men to return.

15. The international organisation did not have information on societal issues for persons returning after having circumvented the mobilisation. However, the source mentioned that there is rising social tension in certain communities, including communities in the occupied territories and in areas hosting large numbers of IDPs. For the latter, the tension is related to the continuous hosting of IDPs while social services are scarce, but also tension over access to humanitarian assistance.

### **Profile of persons who left Ukraine and returned**

16. The international organisation is not systematically tracking the profile of persons leaving and returning, and thus there is no register of returnees. In addition, the source is currently not facilitating or promoting returns. The primary areas of return or intended return include Kyiv oblast, Kyiv city, Mykolaiv, Chernivtsi and Kharkiv. Those who intend to return to Ukraine tend to be those who are most vulnerable, including older persons and persons who are facing challenges accessing employment and social services in their countries of residence. However, there is no official register to provide precise information on this. The source mentioned that there will be some information on the profiles of people who have expressed an intention to return to Ukraine in an upcoming survey conducted amongst people, who have left Ukraine. The survey is expected to be published early 2024.



## Pryncyp

Online meeting, 9 November 2023

### About the source

1. *Pryncyp is a non-governmental human rights organisation founded in 2023, who provides informational support to servicemen. The goal of Pryncyp is to respect the dignity of military personnel in all interactions between the state and soldiers, and the work of the organisation is centred on preparation of information notes for the military, system solution analytics and research, and advocacy work for changes in organs of power. The organisation's team consists of experienced human rights defenders, lawyers, and analysts with knowledge of the barriers of military personnel in their service, treatment, and rehabilitation.*

### Exemption from mobilisation

2. In September 2023, the government adopted changes in the legislative normative act No. 402 from the Ministry of Defence on military medical expertise, which regulates how the military medical commissions (MMCs) perform the military medical examinations. There have been significant changes to the table of diseases that allows a person to be exempted from mobilisation based on health issues. This has resulted in more people being mobilised as a number of diseases have been removed from the table, e.g. HIV and hepatitis. People, who are diagnosed with e.g. HIV and hepatitis can now be mobilised; however, they will be mobilised to serve in positions away from the front. The medical examinations are performed at the MMCs under the military territorial centres. According to the source, there are many problems and risks with this legislation. Pryncyp has been engaged in advocacy work on this and has met with the Ministry of Health and the commander of the Medical Forces, which is a specialist corps in the Ukrainian armed forces responsible for providing medical services to military personnel and their families, to advocate for the changes in the normative act to be rolled back. Pryncyp has also met with the Public Health Centre of the Ministry of Health of Ukraine (PHC) to discuss if the changes in the normative act are dangerous to people with e.g. HIV. PHC is a sanitary and preventive health care institution whose main tasks are to work in the field of public health and meet the needs of the population through epidemiological surveillance, fulfilment of powers to protect the population from infectious and non-infectious diseases, laboratory activities, biological safety, and biological protection. The conclusion from the centre is that the changes pose an increased risk of the health condition of the patients because of a lack of access to relevant medical services in the battlefield, e.g. restorative therapy for HIV patients. The source was expecting more changes in the act to come.
3. According to the source, there are changes to come in the normative acts on mobilisation, e.g. in the suitability act, that governs the assessment on the suitability for serving in the military. In the act, there are three categories of suitability: 1) suitable for military service, 2) suitable for military service in units away from the front and 3) not suitable for military service. There has been a decision in the Security Council to remove the second category,

after which mobilised people with health issues can be mobilised to all units in the military. The changes have not been implemented yet, but there are ongoing discussions on this. Pryncyp has been taking part in the discussions and is advocating against the implementation of the changes. The source stated that the military wants to mobilise more people now than previously. According to the source, the removal of the second category will have the consequence that more vulnerable people with health issues and limited suitability will be mobilised to the army.

4. People with serious diseases are mobilised to the military even though the disease is listed in the table of exemptions or if they belong to the second category of people with limited suitability. The source mentioned an example from the summer of 2023 of a man, who was diagnosed with epilepsy, but who was unlawfully mobilised anyway. He died in training for service of an epilepsy attack, which caused a huge scandal in Ukraine. Afterwards, the case was raised in the Security Council and before the president, who started to find a solution.<sup>475</sup> According to the source, the case is not a consequence of a legal conflict, but a violation of the legal mobilisation procedure.
5. If a person brings a case to the court with a request to be demobilised, because of health issues or disabilities, the court decision is not necessarily sufficient to be demobilised. There are specific rules regarding demobilisation from the military, and only the military commander responsible for the units, where the person serve, can decide to demobilise military personnel. In practice, it is impossible to be demobilised. This has resulted in people with disabilities being mobilised with excluded possibility for demobilisation. A member of parliament proposed to make the legislative basis to demobilise this group of people with disabilities from the army, but the proposal was informally banned by the military commanders and the office of the president as they were reluctant to demobilise anyone. According to the source, it is a very sensitive topic.

### Recruitment procedure

6. The Committee of National Defence have proposed amendments to the mobilisation law in parliament. The draft law amendment contains a proposal to give authorisation to local bodies to mobilise people to the military. According to the source, it will give the police and other local bodies authority to mobilise individuals directly from the street. However, the procedure has not been clearly described in the draft law proposal as to how it will be regulated in practice. Pryncyp is preparing comments to the draft law proposal and is very concerned of the law passing, as it will increase the risk of corruption and give too much responsibility to local bodies, according to their analysis. The source was concerned that the amendments will lead to misunderstandings and unlawful opportunities to mobilise and underlined the sensitivity of the subject of mobilisation.
7. The mobilisation is primarily carried out in rural areas as opposed to in the bigger cities, which is because of social inequality. The source is of the opinion that this takes place

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<sup>475</sup> Ukrainska Pravda, *Мобілізований з епілепсією помер у військовій частині: розслідує прокуратура*, 7 August 2023, [url](#)

because the people living in the rural areas do not have enough money to pay a bribe to the military medical commissions (MMCs) to circumvent mobilisation opposed to people living in the bigger cities, e.g. in Kyiv people may have sufficient savings, a car, or other possessions, that they can sell. The exact cost for a bribe during a medical check is probably variable and dynamic, but the source stated that there are rumours of a cost of 10,000 dollars.

### Conscientious objection and alternative service

8. According to the Law of Ukraine on Alternative (non-military) Service, the right to conscientious objection and alternative service is not recognised during martial law.<sup>476</sup> The source mentioned an example of a man, who moved abroad to evade military service and stated on social media that he did not want to go to the army, because he was a pacifist. This caused many negative reactions from the society.

### Draft evasion and desertion

9. The law amendment no. 8271 from January 27, 2023, regarding the legal liability of military offences committed during martial law, introduced harsher punishments for servicemen during martial law. This is due to the lack of legal guaranties for the individual as mitigation circumstances are not to be taken into consideration in court cases. The source stated that this legislative limitation is against the standards of a fair trial. Pryncyp has published a report on military justice in Ukraine, incl. statistics on the number of criminal cases.<sup>477</sup> After the introduction of law amendment no. 8271, some categories of military crimes trigger a prison sentence, e.g. failure to comply with an order on the battlefield. The source referred to two judgements from the Supreme Court of Ukraine.<sup>478</sup>
10. Criminal responsibility in cases on draft evasion and desertion can be a matter of life and death to other soldiers in the battlefield when someone is committing a military crime in service. However, in court cases, the judges cannot take mitigation circumstances of the crime into consideration and the cases are not assessed on an individual basis, which is the main problem with the law amendment no. 8271. The source noted that the system is very underdeveloped and there is a lack of expertise and understanding of the standards of military justice needed, e.g. in balancing the use of disciplinary punishments and national security towards human rights and the rights of the servicemen.<sup>479</sup> According to the source, the legislators and representatives from the military does not find that the judges understand the situation in the military and that their decisions was too lenient and

<sup>476</sup> Ukraine, Verkhovna Rada, Закон України Про Альтернативну (Невійськову Службу) [Law of Ukraine on Alternative (non-military) Service], 1992, article 1, [url](#)

<sup>477</sup> Pryncyp, *Військова Юстиція Та Захист Прав Військових; Огляд Міжнародного Досвіду Та Тенденцій В Україні* [Military Justice and protection of rights in the Military; Overview of international experience and trends in Ukraine], 10 August 2023, [url](#)

<sup>478</sup> Ukraine, The Supreme Court, Case No. 726/78/23, 11 July 2023, [url](#) ; Ukraine, The Supreme Court, Case No. 726/78/23, 10 July 2023, [url](#)

<sup>479</sup> Pryncyp, *Військова Юстиція Та Захист Прав Військових; Огляд Міжнародного Досвіду Та Тенденцій В Україні* [Military Justice and protection of rights in the Military; Overview of international experience and trends in Ukraine], 10 August 2023, [url](#)

therefore they have limited the judges' discretion to take mitigation circumstances into consideration in cases of military crimes. The source elaborated that in such cases, the challenge for judges is to strike a balance between making just decisions and safeguarding national security. Given that cases involving servicemen also entail the application of military statutes and require knowledge of the peculiarities of military service, legislators have decided that the most effective approach to handling criminal offenses in the army is to establish a system of strict punishment, rather than increasing the level of expertise and teaching judges how to deal with such challenging cases.

11. There are not many cases on draft evasion and desertion in the courts at present, but desertion cases are more prevalent than draft evasion cases, according to the source.
12. According to the source, there were two ways to avoid mobilisation: 1) by moving abroad or 2) by paying the military medical commissions (MMCs) and the military territorial centres to be listed as exempted for mobilisation. To move abroad the individual must either pay a bribe to the MMCs and the military territorial centres to be exempted for mobilisation and therefore allowed to cross the border or find a more creative way to cross the border. The source mentioned that the Zakarpattia region has a number of features that can be associated with the trend of increasing the number of these attempts. This is due to the fact that the region is a) a border region, b) has a significant number of ethnic minorities, and c) has an existing smuggling infrastructure that can potentially be used to provide services for the illegal transfer of persons of mobilisation age abroad. Many wealthy people, who are subject to mobilisation, have moved abroad to evade mobilisation. The source was of the opinion that it is easier to find creative ways to avoid mobilisation when you have money. There are examples of people who have been caught trying to evade mobilisation and moved abroad, and who was subsequently faced with criminal charges.
13. In society, evading mobilisation is considered unfair. If someone has circumvented mobilisation, people do not talk about it in public, as they as well as their family members risk negative societal reactions. There are examples of celebrities, who have moved abroad to avoid mobilisation and have been met with negative reactions. The source was of the opinion that someone, who has moved abroad to avoid mobilisation, will be met with negative reactions from society upon return.

### **Corruption**

14. Pryncyp has met with the National Agency on Corruption Prevention (NACP) to present recommendations on corruption prevention in the mobilisation procedure. According to the source, more than thousands of people paid money to avoid being mobilised, which has created an increases risk for the mobilisation of vulnerable persons, e.g. people with health issues, as the authorities must fill a quota. Vulnerable people are in general main victims of corruption.
15. The level of corruption is very high in Ukraine, and the authorities are not capable to adopt measures to combat corruption. According to the source, it will require a



## Annex 2: Terms of Reference (ToR)

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- **Mobilisation to the Ukraine military**
  - Updates to legislation since February 2023
    - Prevalence of legal uncertainties
    - Exemptions to mobilisation
    - Deferment of mobilisation
    - Mobilisation of women
  - Implementation of exemptions and deferment
  - Profiles of people
    - Number of people mobilised
    - Ukrainians staying abroad
    - Foreign nationalities
    - Dual Ukrainian – Russian citizens
    - Ukrainians with certain professions
  - Recruitment procedures
    - Notification – personally and/or electronically or other measures
    - Prevalence of forced and arbitrary recruitment
  - Conditions
    - Duration of service
    - Training
    - Disciplinary punishments
  - Complaint mechanisms
  - Regional differences
- **Conscientious objection & alternative service**
  - Legislation on conscientious objection & alternative service
  - Implementation of legislation regarding conscientious objection and alternative service
    - Societal attitudes towards objectors
    - Regional differences
- **Draft evasion & desertion**
  - Updates to the legislation since February 2023
    - Statute of limitations, applicable time of punishment
  - Prevalence and changes in trends of the number of draft evaders and deserters
  - Punishment for draft evasion and desertion
    - Incl. brief overview of prison conditions
  - Societal attitudes and reprisals for evading mobilisation and desertion
    - Societal attitudes and reprisals against relatives
  - Consequences for returned draft evaders and deserters
  - Regional differences
- **Corruption**
  - Prevalence of corruption to circumvent mobilisation
    - Ways to circumvent mobilisation
    - Prevalence of forged and illegally obtained documents
  - Punishment for people using corruption to circumvent mobilisation
  - Anti-corruption measures
  - Regional differences

## Annex 3: NACP report

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NATIONAL ANTI-CORRUPTION  
BUREAU OF UKRAINE

# CORRUPTION RISKS

in the activities of  
Military Medical Commissions of the  
Armed Forces of Ukraine

STRATEGIC  
ANALYSIS OF  
CORRUPTION  
RISKS

2023



# LIST OF ABBREVIATIONS

**MMC** - Military Medical Commission

**MME** - military medical examination

**NGO** - non-governmental organisation

**SBI** - State Bureau of Investigation

**CMU** - Cabinet of Ministers of Ukraine

**CCU** - Criminal Code of Ukraine

**MHU** - Ministry of Health of Ukraine

**MSE** - medical and social expertise

**MSEC** - Medical and Social Expert Commission

**RTCRESS** - Regional Territorial Centre for Recruitment and Social Support

**Schedule of diseases** - a schedule of diseases, conditions and physical disabilities that determine the degree of fitness for military service

**SSU** - Security Service of Ukraine

**TCRSS** - Territorial Centre for Recruitment and Social Support

**CMMC** - Central Military Medical Commission

## WARNINGS

Pursuant to Article 62(1) of the Constitution of Ukraine, a person is presumed innocent of committing a crime and shall not be subjected to criminal punishment until his or her guilt is proven in accordance with the law and established by a court verdict of guilty.

The cases in the study are used exclusively for the analysis of corruption risks and are based on open official sources of information published by law enforcement or regulatory authorities, in particular the Unified State Register of Court Decisions.

The information provided in the cases may not reflect all updates on the status of criminal proceedings, which are available only to the relevant law enforcement agencies.

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# INTRODUCTION

In the context of the open unprovoked armed aggression of the Russian Federation against Ukraine, the issues of effective organisation of Activities of Military Medical Commissions (MMCs) and medical examinations of conscripts, military personnel, persons liable for military service, reserve officers called up for military service by officers, reservists, and citizens enrolled for military service under contract have become acute.

**Decree of the President of Ukraine No. 576/2023 of 12 September 2023** enacted the decision of the National Security and Defence Council of Ukraine of 30 August 2023 "On Military Medical Examination in the Armed Forces of Ukraine". In accordance with this Decree, the National Agency on Corruption Prevention (hereinafter referred to as the National Agency) was tasked with **analysing corruption risks in Activities of Military Medical Commissions (MMCs)**.

It was expected that with the growing importance of Military Medical Commissions (MMCs) in the process of manning the ranks of the Armed Forces of Ukraine and achieving mobilisation tasks, the level of corruption risks in the process of their adoption of resolutions on determining the degree of fitness for military service and establishing the causal link between diseases, injuries (wounds, contusions, mutilations) of servicemen, persons liable for military service and reservists has significantly increased.

With the outbreak of full-scale war, the Military Medical Commissions (MMCs) faced a huge workload, outdated legal regulation of the Military Medical Commission (MMC) activities and the system's inability to meet the social challenges posed by the needs of persons liable for military service and military personnel to undergo objective, unbureaucratic military medical examinations (MMEs).

In this regard, there is a need to revise the conceptual approach to building the system of Military Medical Commissions (MMCs), in particular, the legal basis for the activities of the MMCs, their interaction with Territorial Centres for Recruitment and Social Support (TCRSSs), the procedure for conducting medical examinations, and the introduction of a human-centred system that includes a comprehensive approach to supporting persons liable for military service from the moment of call-up to rehabilitation and social support.

According to the information provided by the Ministry of Defence of Ukraine, as of 25.10.2023, a working group of officials from the Central Military Medical Commission (CMMC) and five regional Military Medical Commissions (MMCs) verified 78% of decisions of Military Medical Commissions (MMCs) received for verification, 13% of which were cancelled.

It should be noted that in the period from July to September 2023, 2 full-time Military Medical Commissions (MMCs), 5 regional Military Medical Commissions (MMCs) of Territorial Centre for Recruitment and Social Support (TCRSS), and 1 city Military Medical Commission (MMC) of Territorial Centre for Recruitment and Social Support (TCRSS) were inspected.

## INTRODUCTION

The document that defines the basis for the organisation of military medical examination in the Armed Forces of Ukraine is **the Order of the Ministry of Defence of Ukraine No. 402 of 14.08.2008**, which approved the Regulation on Military Medical Examination in the Armed Forces of Ukraine (hereinafter referred to as the Order No. 402). It regulates the procedure for conducting medical examinations of servicemen, persons liable for military service, reservists of the Armed Forces of Ukraine (Land Forces, Air Forces, Navy, Air Assault Forces, Special Operations Forces), as well as servicemen of the National Guard of Ukraine, the State Border Guard Service of Ukraine and the State Special Transport Service.

Given the urgency of conducting a strategic analysis of corruption risks in this area, the National Agency's experts analysed Order No. 402 for corruption-prone factors, identified the most common corruption risks in the activities of Military Medical Commissions (MMCs) and developed recommendations for their elimination/minimisation.

In preparing the study, the National Agency also analysed and took into account information from Legal Hundred NGO, the Principle Human Rights Centre, the Independent Anti-Corruption Commission (IACC), the Ministry of Defence of Ukraine, the Ministry of Health of Ukraine, doctors and military personnel.

The implementation of the results of this study will ensure that corruption practices and the activities of Military Medical Commissions (MMCs) are incompatible, reduce the burden on law enforcement and judicial systems, and help protect the rights of persons liable for military service and military personnel.



# Statistics of Legal Hundred NGO hotline

for the period from 24.02.2022 to 01.08.2023

Consultations provided on the hotline	41 408	} Number of applications processed 50 840
Written consultations provided via social networks and messengers	9 376	
<b>THE MOST FREQUENTLY ASKED QUESTIONS (over 1 thousand requests)</b>		
Dismissal from service	6 834	
<b>Military Medical Commission</b>	4 432	
Cash collateral, payments	3 041	
Transfer to another unit	2 882	
Mobilisation	2 853	
Medical issues	2 629	
Postponement of mobilisation	1 742	
Holidays	1 461	
Combatant eligibility	1 082	
Medical and Social Expert Commission (MSEC)	1 071	
Payment of one-time financial assistance and benefits for the family of the deceased	1 062	

According to the statistics of hotline Legal Hundred NGO for the period from 24.02.2022 to 01.08.2023, about 30 thousand of the most pressing issues were processed.



The second most relevant question is about the work of the Military Medical Commissions (MMCs), which accounts for 15% of the total number of questions.

# More information on the content of the questions related to the activities of the Military Medical Commissions (MMCs) according to the hotline of Legal Hundred NGO

## **Complaints about superficial inspection at Military Medical Commissions (MMCs) during mobilisation**

Most of these appeals relate to the accelerated format of the work of Military Medical Commissions (MMCs), which is applied after the service of the call-up. Persons liable for military service are often unable to quickly provide confirmation of diagnoses and chronic diseases that Military Medical Commissions (MMCs) must take into account when determining their fitness for service, which leads to the deployment of persons with health conditions that prevent them from performing combat missions.

## **Commanders do not give referrals to Military Medical Commissions (MMCs), even though there is a deterioration in the state of health on duty or an injury**

Commanders often ignore reports for military personnel to undergo a medical examination. This delay often leads to irreversible deterioration of health.

## **Complaints about the situation: "The MMC doctor was instructed to write "fit", how can I appeal?"**

There are frequent complaints about doctors who report during examinations that they have been instructed not to declare servicemen and women liable for military service unfit. Such complaints are difficult to confirm or deny, but such information is provided in different regions. This situation leads to the need to appeal against the decisions of Military Medical Commissions (MMCs).

## **Complaints against individual Military Medical Commissions (MMCs) due to "unprofessionalism" of the commission**

There are reports of unethical and unprofessional behaviour of doctors during the examination. The examination is quick and the complaints are levelled down and not taken into account.

## **Medical issues**

Complaints from servicemen about poor quality and short-term treatment after injuries and exacerbations of illnesses.

Impossibility for a serviceman to change hospitals for further treatment and rehabilitation.

## **Doctors in hospitals refuse to refer to Military Medical Commissions (MMCs)**

# Law enforcement agencies: combating crime in the activities of Military Medical Commissions (MMCs)



In August 2023, law enforcement agencies, in particular the State Bureau of Investigation (SBI), conducted searches in a number of military commissions in Vinnytsia, Cherkasy and Kyiv regions. The investigations are part of a criminal investigation into the illicit enrichment of military personnel holding senior positions in regional and district Territorial Centres for Recruitment and Social Support (TCRSSs). A total of 388 people has been identified as having doubts about the legality of their military qualification commission decisions on their unfitness for military service. Medical documentation that could confirm the facts of unlawful decisions on unfitness for military service, personal files, etc. were seized.

Earlier, State Bureau of Investigation (SBI) officers conducted 15 searches in Odesa and Mykolaiv regions, as well as in Kherson and Beryslav district Territorial Centres for Recruitment and Social Support (TCRSSs). The institutions are being checked for possible corrupt practices of the staff during the general mobilisation, illegal "exemption" from mobilisation of reserve officers and other persons liable for military service. Previous inspections have already revealed numerous instances of abuse by military commissars and unjustified deregistration of reserve officers on the basis of fictitious certificates from the military registration and enlistment offices. Based on the results of the inspections, three officials of Territorial Centres for Recruitment and Social Support (TCRSSs) were notified of suspicion<sup>1</sup>.

<sup>1</sup> <https://dbr.gov.ua/news/dbr-provodit-slidchi-dii-u-vijskkomatah-ta-vlk-dlya-viyavleniya-faktiv-korupcii.-porusheni-kriminalni-provadhennya>

## LAW ENFORCEMENT AGENCIES: COMBATING CRIME IN THE ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCS)

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According to the State Bureau of Investigation (SBI), a total of 260 criminal proceedings related to the work of Territorial Centres for Recruitment and Social Support (TCRSSs) and Military Medical Commissions (MMCs) are being investigated in 2023.

As part of these criminal proceedings, the State Bureau of Investigation (SBI) also documented the facts of receiving illegal benefits worth **almost UAH 4 million by officials**<sup>2</sup>.

The above facts demonstrate the widespread abuse of power by officers of Territorial Centres for Recruitment and Social Support (TCRSSs) and officials of Military Medical Commissions (MMCs), in particular, for the purpose of obtaining unlawful benefits.

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<sup>2</sup> <https://dbr.gov.ua/news/dbr-rozslidue-260-kriminalnih-provadzhen-za-faktami-porushen-u-vijskkomatah-ta-vijskovo-likarskih-komisiyah>

# SOURCES OF CORRUPTION RISKS IN THE ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs):

- individual dishonesty of the chairperson and members of Military Medical Commissions (MMCs);
- imperfect legal regulation of the activities of military medical examination (MME) bodies and conduct of military medical examination (MME);
- using different approaches to conducting internal investigations and calculating payments;
- Excessive discretionary powers of the members and the head of Military Medical Commissions (MMCs) when conducting medical examinations;
- Excessive discretionary powers of the head of Territorial Centres for Recruitment and Social Support (TCRSSs), head of the healthcare facility (institution) in forming the personal composition of Military Medical Commission (MMC);
- Inadequate material and technical support for the activities of Military Medical Commission (MMC);
- low level of remuneration of civilian and military doctors performing military medical examination (MME)
- unclear procedure for pre-trial appeal of the decisions of Military Medical Commissions (MMCs);
- Slowdown in the digitalisation of Military Medical Commission (MMC) operations;
- Formation of networks of corruption ties based on existing formal institutional and functional interactions between doctors, Military Medical Commissions (MMCs), Medical and Social Expert Commissions (MSECs) and other bodies;
- insufficient awareness of persons liable for military service and military personnel about their rights and opportunities to receive services without corruption.

# SYSTEMIC PROBLEMS OF PREVENTING CORRUPTION AND DRIVERS OF CORRUPTION RISKS IN THE ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

- Increased demand for fake decisions on unfitness for military service, and in some cases, with subsequent disability determination based on them, in exchange for providing undue benefits to the officials of Military Medical Commissions (MMCs) and Medical and Social Expert Commissions (MSECs);
- involvement of "corrupt intermediaries" who provide services to facilitate obtaining a decision on unfitness for military service by using their official and personal connections;
- criminal cases against Military Medical Commission (MMC) officials are mostly concluded by the court approving preliminary agreements with the investigation on pleading guilty to criminal offences, the punishment for which is limited to fines<sup>3</sup>. The analysis of court practice shows that there is no additional punishment in the form of deprivation of the right to practice medicine, and only a small part of the verdicts in this category provides for temporary deprivation of the right to hold positions related to the exercise of organisational and administrative functions.

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3 <https://reyestr.court.gov.ua/Review/113943966>

# SECTION I.

## THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

### Corruption risk 1.

01

Emergence of corruption factors due to excessive flexibility of legal regulation of Military Medical Commissions (MMCs)

### RISK DESCRIPTION

The system of Military Medical Commissions (MMCs) that existed before the outbreak of full-scale war was not ready for the needs of wartime, in particular, due to imperfect legal regulation of Military Medical Commissions (MMCs) and conduct of military medical examination (MME). It is the Cabinet of Ministers of Ukraine (CMU) resolution that should have outlined the legal framework for the activities of Military Medical Commissions (MMCs), which would have met the requirements set out in the Fundamentals of the Legislation of Ukraine on Healthcare, which stipulate that the procedure for organising and conducting military medical examination is established by the Cabinet of Ministers of Ukraine (CMU) (part 4 of Article 70).

In addition, the Report of the Venice Commission No. 512/2009 "On the Rule of Law", adopted at the 86th plenary session on 25-26 March 2011, explains the concept of "legal certainty". In particular, it is noted that the state must make the text of the law easily accessible; it is also obliged to comply with the laws it has enacted and apply them in a predictable manner and with logical consistency.

Foreseeability means that the law should be announced in advance (before it is applied), if possible, and should be predictable as to its consequences: it should be formulated with sufficient clarity to enable a person to direct his or her behaviour (para. 44)<sup>4</sup>.

The expediency of the Cabinet of Ministers of Ukraine (CMU) adoption of a standard procedure for organising and conducting military medical examination (MME) is also due to the need to ensure the stability of legal relations and predictability of legal regulation of the PIC's activities.

Currently, according to the Cabinet of Ministers of Ukraine (CMU) Resolution No. 708 of 07.09.1993 "On the Procedure for Organising and Conducting Military Medical Examination"<sup>5</sup>, the Ministry of Defence of Ukraine is tasked, in particular, with developing the Regulation on Military Medical Examination and Medical Examination in the Armed Forces of Ukraine.

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4 [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)003rev2-ukr](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)003rev2-ukr)

5 <https://zakon.rada.gov.ua/laws/show/708-93-%D0%BF#Text>

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

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*However, this Cabinet of Ministers of Ukraine (CMU) does not contain a standard procedure for organising and conducting a military medical examination (MME), on the basis of which the Ministry of Defence of Ukraine, the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine and, if necessary, other bodies or military formations of the security and defence sector, as defined by part 2 of Article 12 of the Law of Ukraine "On National Security of Ukraine", should adopt the relevant Regulations on military medical examination.*

*At the same time, the current Order No. 402 is drafted in violation of the rules of legal technique and contains corruption-prone factors. In particular, the failure to comply with the principle of legal certainty leads to corruption risks in the formation and operation of Military Medical Commissions (MMCs).*

*At the same time, strict adherence to the procedure for adopting and amending Cabinet of Ministers of Ukraine (CMU)<sup>s6</sup> will eliminate the corruption factor caused by excessive flexibility of such a legal regulation instrument as an order of a central executive body, and will prevent chaotic and inconsistent changes. In addition, the new procedure of the Cabinet of Ministers of Ukraine (CMU) for passing Military Medical Commissions (MMCs) should be based on a human-centred approach and developed with the involvement of interested central authorities, expert, veteran and other non-governmental organisation (NGOs).*

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6 <https://zakon.rada.gov.ua/laws/show/950-2007-%D0%BF#Text>



## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

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02

### Corruption risk 2.

Abuses in the formation of the staff of the Military Medical Commissions (MMCs) and the appointment of the head of Central Military Medical Commission (CMMC) due to unclear legal regulation

#### RISK DESCRIPTION

In accordance with clause 2.1 of Chapter 2, Section I of Order No. 402, military medical examination commissions (MMCs) are established to conduct military medical examinations, both full-time and part-time (permanent and temporary). Taking into account the latest amendments to the Regulation on Military Medical Examination in the Armed Forces of Ukraine, approved by the order of the Ministry of Defence of Ukraine of 18.08.2023

No. 490, it is worth noting that the number of full-time Military Medical Commissions (MMCs) has now decreased and includes them:

1. Central Military Medical Commission (CMMC);
2. The regional medical examination commissions (MMCs).

According to information received from the Ministry of Defence of Ukraine, the staff of regional medical examination commissions (MMCs) are military personnel and employees of the Armed Forces of Ukraine, while the staff of the Central Military Medical Commissions (CMMCs) are military personnel and civil servants.

The staff of Military Medical Commissions (MMCs) is staffed by doctors with clinical training in one of the medical specialties (therapy, surgery, neurology, psychiatry, otorhinolaryngology, ophthalmology, healthcare organisation, etc.), with experience in military units and healthcare institutions (part 2, clause 2.2, chapter 2, section I of Order No. 402).

Subparagraphs 2.4.1 and 2.4.2 of Chapter 2 of Section I of Order No. 402 stipulate that the appointment of officers to the positions of regular Military Medical Commissions (MMCs) is subject to the approval of the head of the Central Military Medical Commission (CMMC). The head of the regional Military Medical Commission (MMC) is directly subordinate to the head of the Central Military Medical Commission (CMMC).

*At the same time, Order No. 402 still does not regulate the procedure for appointing members, the chairman, deputy chairman and secretary of Military Medical Commissions (MMCs), in particular, the number of members of Military Medical Commissions (MMCs) required for the functioning of Military Medical Commissions (MMCs); the maximum number of members of Military Medical Commissions (MMCs); requirements for the length of service of members, the chairman, deputy chairman and secretary of Military Medical Commissions (MMCs); restrictions on appointments to positions in Military Medical Commissions (MMCs); regulation of conflicts of interest, etc.*

*The lack of clear regulation of the activities of Military Medical Commissions (MMCs) leads to their non-transparent establishment and operation in conditions of possible conflict of interest.*

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

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It is also worth noting that the Regulation on Military Service of Citizens of Ukraine in the Armed Forces of Ukraine, approved by Presidential Decree No. 1153/2008 of 10 December 2008, also does not provide for any qualification requirements for military personnel who are members of the regular Military Medical Commission (MMC).

*Thus, the unclear legal regulation of the formation of the composition of Military Medical Commissions (MMCs) contributes to the emergence of corruption risks associated with the non-transparent appointment of persons to the positions in Military Medical Commissions (MMCs) and the dishonest performance of their tasks.*

*In addition, in accordance with subparagraph 2.3.2 of paragraph 2.3 of Section I of Order No. 402, the head of the Central Military Medical Commission (CMMC) is directly subordinate to the Commander of the Medical Forces of the Armed Forces of Ukraine.*

*However, Order No. 402 does not establish qualification requirements for the head of the Central Military Medical Commission (CMMC), the term of office and the procedure for appointment. Given that all regular Military Medical Commissions (MMCs) are directly subordinated to the Head of the Central Military Medical Commission (CMMC), the absence of a term of office for the Head of the Central Military Medical Commission (CMMC) facilitates the formation of stable personal and official relations and leads to corruption risks in decision-making, including in the context of a conflict of interest.*

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

03

### Corruption risk 3.

Abuses in the formation of the staff and appointment of the heads of non-staff permanent Military Medical Commissions (MMCs) due to Unclear legal regulation

#### RISK DESCRIPTION

According to subparagraphs 2.5.1 of paragraph 2.5, Chapter 2, Section I, Order No. 402, the following are considered to be non-staff permanent Military Medical Commissions (MMCs) (medical advisory commissions): hospital Military Medical Commissions (MMCs); garrison Military Medical Commissions (MMCs); Military Medical Commissions (MMCs); Military Medical Commissions (MMCs) of the Air Assault Forces; Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs); Military Medical Commissions (MMCs) of the intelligence agency of the Ministry of Defence of Ukraine; Military Medical Commissions (MMCs) of the Special Operations Forces of the Armed Forces of Ukraine; Military Medical Commissions (MMCs) of other healthcare institutions of municipal or state ownership.

Sub-clause 2.5.2 of clause 2.5 of Chapter 2 of Section I of Order No. 402 stipulates that non-staff (permanent and temporary) Military Medical Commissions (MMCs) (medical advisory commissions) are appointed as a chairman, deputy chairman (one of the commission members may be appointed), commission members (in garrison Military Medical Commissions (MMCs), hospital Military Medical Commissions (MMCs), Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs) at least three doctors, in other Military Medical Commissions (MMCs) and medical advisory commissions – a therapist, surgeon, uropathologist, ophthalmologist, dentist, otorhinolaryngologist, psychiatrist) and a secretary from among specialists with medical education. Doctors of other specialties may be appointed to the composition of Military Medical Commissions (MMCs) (medical advisory commissions).

The composition of Military Medical Commissions (MMCs) (medical advisory commissions) of Territorial Centres for Recruitment and Social Support (TCRSSs) includes medical workers of a healthcare institution of communal or state ownership, determined by the decision of the executive body of the village, settlement, city council (heads of the regional, Kyiv city military administrations, as well as district military administrations and military administrations of settlements), in agreement with the head of the relevant regular Military Medical Commission (MMC) of the region (subparagraph 2.5.3 of paragraph 2.5 of the same chapter and section of Order No. 402).

Subparagraph 2.5.5 of paragraph 2.5 of Chapter 2 of Section I of Order No. 402 stipulates that chief (leading) medical specialists, heads of departments and other medical specialists of healthcare institutions in the system of the Ministry of Defence of Ukraine, heads of medical services of military units where the serviceman under examination serves, and military specialists are involved in the work of non-staff Military Medical Commissions (MMCs) as members of the commission.

*It is worth noting that Order No. 402 does not provide for qualification requirements for members, deputy chairman, chairman and secretary of the non-staff permanent Military Medical Commission (MMC); the maximum number of members of the non-staff Military Medical Commission (MMC); restrictions on appointments to the non-staff Military Medical Commission (MMC); settlement of conflicts of interest, etc.*

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

*In addition, Order No. 402 does not regulate the question of which doctors - civilian and/or military - are to form the composition of non-staff permanent Military Medical Commissions (MMCs) (except for Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs)), and does not provide for the ratio of such doctors in the composition of the relevant Military Medical Commission (MMC).*

Subparagraphs 2.5.6 and 2.5.7 of paragraph 2.5 of Chapter 2 of Section I of Order No. 402 stipulate that the list of healthcare facilities (institutions), military units where non-staff permanent Military Medical Commissions (MMCs) (medical advisory commissions) are organised, together with the list of chairmen and deputy chairmen of these Military Medical Commissions (MMCs) (medical advisory commissions) for the next calendar year, is approved annually by 25 December by the Head of the Central Military Medical Commission (CMMC) upon submission of the heads of the regular Military Medical Commissions (MMCs) of the regions. During the special period, if there is a need to create additional non-staff permanent Military Medical Commissions (MMCs) (medical advisory commissions), the said list together with the list of chairmen and deputy chairmen of Military Medical Commissions (MMCs) (medical advisory commissions) shall be immediately submitted to the Head of the Central Military Medical Commission (CMMC) for approval by the heads of the regular SLCs of the regions.

On the basis of the approved list, the head (manager) of the healthcare facility (institution) shall appoint non-staff permanent Military Medical Commissions (MMCs), their personnel and determine the procedure for their work by his/her order.

The chairman of the non-staff permanent Military Medical Commission (MMC) is a doctor who has undergone technical improvement (training) in military medical examination or has at least three years of experience in Military Medical Commissions.

*However, Order No. 402 does not provide for a general procedure for appointing the chairman and deputy chairman of the non-staff permanent Military Medical Commission (MMC).*

At the same time, part 3, subpara. 2.8.1, para.8, chapter 2, section I, Order No. 402 establishes that the head of Military Medical Commissions (MMCs) of a district (city) Territorial Centres for Recruitment and Social Support (TCRSSs) is appointed by the order of the head of the district Territorial Centre for Recruitment and Social Support (TCRSS) after agreement with the chief physician of the district (city) hospital, the head of Military Medical Commissions (MMCs) of the regional Territorial Centre for Recruitment and Social Support (TCRSS), the Autonomous Republic of Crimea, the Kyiv city Territorial Centre for Recruitment and Social Support (TCRSS), and the Sevastopol city Territorial Centre for Recruitment and Social Support (TCRSS).

According to part 4 of subparagraph 2.8.1 of paragraph 2.8 of chapter 2 of section I of Order No. 402, the head of the Military Medical Commission (MMC) of the regional Territorial Centre for Recruitment and Social Support (TCRSS) (of the Autonomous Republic of Crimea, Kyiv city Territorial Centre for Recruitment and Social Support (TCRSS), Sevastopol city Territorial Centre for Recruitment and Social Support (TCRSS) ) is appointed as the head of the medical department of this Territorial Centre for Recruitment and Social Support (TCRSS) by order of the head of the Territorial Centre for Recruitment and Social Support (TCRSS) after approval by the head of the regional Military Medical Commission (MMC).

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

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*The use of such evaluative concepts as "the most experienced in Military Medical Examination" in Order No. 402 will contribute to the non-transparent selection of the head of the relevant Military Medical Commission (MMC).*

*At the same time, Order No. 402 does not provide for a separate procedure for the appointment of the head of a hospital Military Medical Commission (MMC), garrison Military Medical Commission (MMC), Military Medical Commission (MMC), Military Medical Commission (MMC) of the Air Assault Forces, Military Medical Commission (MMC) of the intelligence agency of the Ministry of Defence of Ukraine, Military Medical Commission (MMC) of the Special Operations Forces of the Armed Forces of Ukraine and Military Medical Commission (MMC) of other healthcare institutions of municipal or state ownership.*

*Thus, the absence of a unified approach to the formation of the composition of non-staff permanent Military Medical Commission (MMC) and their chairpersons may serve as another negative factor that will not only lead to the use of excessively subjective approaches in the appointment of members and chairpersons of non-staff permanent Military Medical Commission (MMC), but may also become the basis for the development of corruption practices.*

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

04

### Corruption risk 4.

Duplication of powers of military authorities, local self-government and state authorities due to the unregulated procedure for establishing Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs)

#### RISK DESCRIPTION

The previous version of Order No. 402 of 16.04.2021 stipulated that the military commissariat's Military Medical Commission (MMC) is established in the district (city) military commissariat in accordance with the procedure established by law in agreement with the interested authorities (subparagraph 2.10.1 of paragraph 2.10 of Chapter 2 of Section I of Order No. 402).

Based on the information received from the regional Territorial Centres for Recruitment and Social Support (TCRSSs) and from open sources, the Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs) were established both by the order of the mayor or the decision of the executive committee of the city council, by the orders of the region/district state administration<sup>7</sup>, district/region military administration, and by the order of the head of Territorial Centre for Recruitment and Social Support (TCRSS). Given the latest amendments to Order No. 402 in August 2023, Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs) is currently established in the district (city) Territorial Centres for Recruitment and Social Support (TCRSSs).

To manage and control the activities of these commissions, the Crimean Republican, regional, Kyiv and Sevastopol city Territorial Centres for Recruitment and Social Support (TCRSSs) of the Autonomous Republic of Crimea, regions, respectively, and the Kyiv and Sevastopol city Military Medical Commission (MMC) are established (sub-clause 2.8.1 of clause 2.8 of chapter 2 of section I of Order No. 402).

Order No. 402 only establishes the procedure for the appointment of the chairman and members of Military Medical Commission (MMC) of Territorial Centres for Recruitment and Social Support (TCRSSs) by the head of the respective Territorial Centre for Recruitment and Social Support (TCRSS) (see, inter alia, clause 2.8 of Order No. 402) and states, in particular, that the personal composition of Military Medical Commission (MMC) of the district (city), regional Territorial Centre for Recruitment and Social Support (TCRSS) is determined by orders of the respective heads of Territorial Centres for Recruitment and Social Support (TCRSSs). At the same time, Order No. 402 does not regulate the procedure for establishing Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs)'s and, accordingly, does not specify the entity authorised to make such a decision.

*This creates uncertainty about the entity authorised to make such a decision, which in turn contributes to the duplication of powers of military authorities, local self-government and state authorities.*

<sup>7</sup> [https://old.loda.gov.ua/upload/doc/2022/01/37\\_1643175231.pdf](https://old.loda.gov.ua/upload/doc/2022/01/37_1643175231.pdf) and <https://kolrda.gov.ua/sites/kolrda.gov.ua/files/inline-files/23.pdf>



## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

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05

### **Corruption risk 5.**

Non-transparent procedure for determining a municipal or state-owned healthcare facility, which may establish Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs)

### RISK DESCRIPTION

Taking into account the provisions of subparagraph 2.5.3 of paragraph 2.5 of Chapter 2 of Section I of Order No. 402, the decision of the executive body of the village, town or city council (heads of the regional, Kyiv city military administrations, as well as district military administrations and military administrations of settlements), in agreement with the head of the relevant regular Military Medical Commission (MMC) of the region, determines the list of healthcare institutions of communal or state ownership.

*However, in part 3 of Article 70 of the Fundamentals of Legislation of Ukraine on Healthcare and in the Order No. 402 does not provide for criteria and/or conditions (e.g., material and technical support, availability of doctors who may be members of the relevant Military Medical Commission (MMC), etc.) that are necessary to determine the medical institutions where non-staff permanent Military Medical Commissions (MMCs) may be established.*

In addition, subparagraph 2.5.10 of paragraph 2.5 of Chapter 2 of Section I of Order No. 402 establishes that the provision of non-staff Military Medical Commissions (MMCs) with medical equipment and property, medical devices, instruments, medicines, household equipment, furniture, real property and stationery, allocation of premises and provision of utilities to them is the responsibility of healthcare facilities (institutions) and military units where these commissions are established.

*The absence of criteria for determining a municipal or state-owned healthcare facility creates legal uncertainty that can lead to excessive discretion in determining such a facility and makes it impossible to select a facility in a transparent manner, in particular, taking into account the conditions of its technical equipment to ensure the operation of Military Medical Commissions (MMCs) and the creation of all necessary conditions for the medical examination of persons liable for military service and military personnel.*

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

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06

### **Corruption risk 6.**

Abuse of authority by the head (chief) of the healthcare facility (institution) and the head of Territorial Centres for Recruitment and Social Support (TCRSSs) in the formation of the staff of Military Medical Commissions (MMCs)

### RISK DESCRIPTION

Taking into account the provisions of sub-clauses 2.5.6 and 2.5.7 of clause 2.5 of chapter 2 of section I of Order No. 402, based on the approved list of healthcare facilities (institutions), military units where non-staff permanent Military Medical Commissions (MMCs) (medical advisory commissions) are organised, the head (manager) of the healthcare facility (institution) shall appoint non-staff permanent Military Medical Commissions (MMCs), their staff and determine the procedure for their work by his/her order.

At the same time, the personal composition of Military Medical Commission (MMC) of the district (city), regional Territorial Centre for Recruitment and Social Support (TCRSS) is determined by orders of the respective heads of Territorial Centres for Recruitment and Social Support (TCRSSs) (part 5 of subparagraph 2.8.1 of paragraph 2.8 of chapter 2 of section I of Order No. 402).

In addition, there are still questions about what criteria and requirements should be used by the head of Territorial Centre for Recruitment and Social Support (TCRSS) to determine qualified members of Military Medical Commissions (MMCs) of Territorial Centre for Recruitment and Social Support (TCRSS) and whether granting the head of Territorial Centre for Recruitment and Social Support (TCRSS) such exclusive powers will allow for a transparent and high-quality selection of doctors.

Probably, the list of such doctors who can be involved as members of Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs) should be provided in accordance with the decisions of the executive body of the village, town or city council (heads of the regional, Kyiv city military administrations, as well as district military administrations and military administrations of settlements).

*However, Order No. 402 does not provide for any anti-corruption safeguards that would facilitate the transparent formation of the composition of Military Medical Commissions (MMCs) of Territorial Centre for Recruitment and Social Support (TCRSS).*

*Thus, the appointment of the personnel of the non-staff permanent Military Medical Commissions (MMCs) is within the discretionary powers of the head of the healthcare facility (institution) and the head of Territorial Centres for Recruitment and Social Support (TCRSSs).*



## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

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*Therefore, it is undeniable that discretion is part of managerial authority, and its unrestricted exercise creates corruption risks.*

*However, in the case of appointment of members of non-staff Military Medical Commissions (MMCs), there are established filters that should guide the head of the healthcare institution and the head of Territorial Centres for Recruitment and Social Support (TCRSSs) in making such a decision, in particular, the establishment of qualification requirements for members of a permanent non-staff Military Medical Commission (MMC), remuneration, and restrictions on appointment to positions in the regular Military Medical Commission (MMC).*

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

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07

### Corruption risk 7.

#### Manipulations in determining and paying civilian doctors

##### RISK DESCRIPTION

According to Order No. 402, Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs) include medical workers of municipal or state-owned healthcare institutions, determined by the decision of the executive body of the village, town or city council (heads of the regional, Kyiv city military administrations, as well as district military administrations and military administrations of settlements), in agreement with the head of the relevant regular Military Medical Commission (MMC) of the region.

According to part 6 of Art. 43 of the Law of Ukraine "On Military Duty and Military Service", *members of commissions for assignment to enlistment offices, enlistment and Military Medical Commissions at the relevant district (city) territorial centres for recruitment and social support, doctors and paramedical staff, technicians and service personnel, who are sent to work at recruiting stations and assembly points during the registration of conscripts for military service and conscription of citizens for military service or for training for medical examination and re-examination of citizens, as well as for sending conscripts to assembly points, shall retain their position and average salary at their main place of work for the entire period of performance of these duties.*

Thus, in accordance with the Law of Ukraine "On Military Duty and Military Service", members of Military Medical Commissions (MMCs) retain their position and average salary at their main place of work.

Before the latest changes were introduced in May and August 2023, the doctors of Military Medical Commissions (MMCs) of Territorial Centre for Recruitment and Social Support (TCRSS) only worked on the basis of Territorial Centre for Recruitment and Social Support (TCRSS), and no separate funding was provided.

However, the Procedure for Implementation of the Programme of State Guarantees of Medical Care for the Population in 2023, approved by Cabinet of Ministers of Ukraine (CMU) No. 1464 of 27 December 2022, has now been supplemented by Chapter 361.

"Medical examination of persons organised by territorial centres of complex and social support" according to the Resolution of the Cabinet of Ministers of Ukraine of 18.04.2023 No. 343 (valid until the date of termination or cancellation of martial law in Ukraine, but not later than 31.12.2023).

These amendments provide, in particular, that the tariff for medical services for medical examination of persons defined by the specifications is defined as the rate for a medical service, which will be UAH 883 per medical examination (clause 144-2).

The planned average monthly number of medical examinations may not exceed 150 per month (part

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

3 of clause 144-3).

Thus, it was only in May 2023 that the Medical Guarantees Programme introduced a package that allows persons liable for military service to undergo medical examinations in civilian healthcare facilities.

The National Health Service of Ukraine (NHSU) pays for the institutions that provide such services, and there are currently 484 institutions designated by the regional and Kyiv city military administrations and assigned to recruitment centres, for which funding of **UAH 226.2 million is provided**<sup>8</sup>.

Also, as of 13.09.2023, **UAH 52 million 419 thousand** was paid to institutions for services provided under the package "Medical examination of persons organised by territorial centres of recruitment and social support"<sup>9</sup>.

Pursuant to Article 77(1)(g) of the *Fundamentals of Legislation of Ukraine on Healthcare, medical and pharmaceutical workers have, inter alia, the right to remuneration in state and municipal healthcare institutions in the amount not lower than that determined by the Cabinet of Ministers of Ukraine, including the minimum wage guarantees.*

Accordingly, the Cabinet of Ministers of Ukraine adopted Resolution No. 28 of 13.01.2023 "Some issues of remuneration of employees of state and municipal healthcare institutions"<sup>10</sup>.

Since the programme of state guarantees of medical care for the population includes a package that allows people to undergo medical examinations organised by territorial recruitment and social support centres, the remuneration of doctors who conduct such medical examinations depends on the number of medical examinations conducted and is funded by the NHSU.

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8 <https://www.kmu.gov.ua/news/moz-pratsiuie-nad-vykonanniam-rishennia-rnbo-z-vdoskonalennia-roboty-vlk>

9 <https://moz.gov.ua/article/news/udoskonalennja-vijskovo-likarskoi-ekspertizi-nad-chim-pracjue-moz>

10 <https://zakon.rada.gov.ua/laws/show/28-2023-%D0%BF#Tex>

## SECTION I. THE PROCEDURE FOR THE FORMATION OF THE MILITARY MEDICAL EXAMINATION (MME) BODIES

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Thus, there are currently two procedures for remuneration of doctors who are involved in the work of the relevant Military Medical Commission (MMC) as members and/or chairpersons:

- 1) the doctor retains his/her position and average salary at the main place of work;
- 2) The NHSU pays the doctors involved based on the number of medical examinations performed.

The existence of a legal conflict regarding the procedure for remuneration of civilian doctors contributes to the disruption of the systemic nature of legal regulation and thus reduces its effectiveness, and thus creates conditions for abuse in the process of remuneration of doctors.

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

08

### Corruption risk 8.

Using the uncertainty of the timing of military medical examination (MME) to set up corruption schemes

#### RISK DESCRIPTION

*The current legislation does not provide for a time limit for the medical examination by the Military Medical Commission (MMC) to determine the degree of fitness for military service.*

*The absence of a time limit for the conduct of military medical examination (MME) may give rise to excessive discretionary powers of military medical examination (MME) officials. In addition, such legal uncertainty creates conditions for abuse of rights by both the chairman/members of Military Medical Commissions (MMCs) and persons liable for military service.*

Prior to the examination of persons liable for military service/citizens being considered as candidates for a contract for service in the military reserve, they undergo a general blood test, urine test, and serological blood test for antibodies to human immunodeficiency virus (HIV), surface antigen to hepatitis B virus (HbsAg), total antibodies to hepatitis C virus (anti-HCV), micro-precipitation reaction with cardiolipin antigen or total antibodies to pale treponema (RW); blood group and Rh status are determined, chest X-ray and ECG are performed.

People over 40 years of age must have their intraocular pressure measured and blood sugar tested. Other tests are performed according to indications. Referrals for the above laboratory and instrumental examinations may be made by doctors from municipal or state-owned healthcare facilities involved in the medical examination of persons liable for military service (clause 3.4 of Chapter 3 and clause 5.1 of Chapter 5 of Section II of Order No. 402).

In accordance with established practice, referrals for laboratory tests are made by Military Medical Commissions (MMCs) at the initial stage of medical examination of persons liable for military service/citizens who are considered candidates for a contract for service in the military reserve.

*However, Order No. 402 also does not specify the timeframe for such tests and does not regulate the process of referring persons for laboratory and instrumental tests.*

In order to eliminate legal uncertainty, it should be stipulated that it is the Military Medical Commission (MMC) that issues referrals to persons liable for military service/citizens who are considered candidates for a contract for service in the military reserve for mandatory laboratory and instrumental tests, and, if medically indicated, for other laboratory and instrumental tests. for other laboratory and instrumental examinations, and for other medical reasons.

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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*In addition, Order No. 402 does not define a specific list of healthcare facilities where such studies may be conducted.*

Indeed, on the one hand, this lack of regulation allows persons liable for military service/citizens who are considered candidates for a contract for service in the military reserve to undergo laboratory and instrumental examinations in both private and public healthcare facilities. At the same time, they receive a legal tool for artificially delaying the process of undergoing laboratory and instrumental examinations, along with the possibility of reaching corrupt agreements with doctors who conduct these examinations in exchange for unlawful benefit or in conditions of a conflict of interest.

*In view of this, the provisions of Order No. 402 need to be clarified in order to clearly define the subject of the referral for instrumental and laboratory tests, limit the range of healthcare facilities where a person can undergo such tests, and establish specific time limits for their completion.*

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**Corruption risk 9.**

Demanding unlawful benefit for taking into account all existing diseases and conditions during medical examinations

**RISK DESCRIPTION**

In accordance with clause 1.1 of Chapter 1, Section II of Order No. 402, a medical examination includes the study and assessment of the state of health and physical development of citizens at the time of the examination in order to determine the degree of fitness for military service, training in military medical specialities, and other issues stipulated by this Regulation, with a written conclusion (resolution). For the purposes of this Regulation, fitness for military service means a state of health and physical development of citizens that allows them to perform service duties in a particular military speciality in the Armed Forces of Ukraine and other military formations established in accordance with the law (hereinafter referred to as other military formations) in peacetime and wartime.

Paragraph 1.2 of Chapter 2 of Section II of Order No. 402 provides that the decisions of Military Medical Commissions (MMCs) are made on the basis of the Schedule of Diseases, explanations on the application of the articles of the Schedule of Diseases and other additional health requirements. Each person liable for military service is examined by a surgeon, physician, neurologist, psychiatrist, ophthalmologist, otorhinolaryngologist, dentist, dermatologist, and, if medically necessary, by doctors of other specialities (part 2, clause 3.2, chapter 3, section II of Order No. 402).

In accordance with paragraphs 8-12 of clause 3.8 of chapter 3 of section II of this Order No. 402, upon completion of the medical examination during mobilisation, the Military Medical Commission (MMC) issues one of the following decisions in respect of a person liable for military service:

- "Fit for military service";
- "Temporarily unfit for military service (indicate the date of the second examination)";
- "Unfit for military service with exclusion from military registration";
- "Restrictedly fit for military service".

*It should be noted that, according to the Schedule of Diseases, fitness for military service is established not by a combination of diseases or conditions, but by the degree of impairment of body functions that may cause the relevant diseases, conditions or physical disabilities<sup>11</sup>.*

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11 <https://reyestr.court.gov.ua/Review/113098842>

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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*Thus, the assessment is based on the state of individual bodies and systems of agencies and does not take into account their interconnectedness.*

*However, the failure to take into account the totality of diseases casts doubt on the objectivity of the decisions of Military Medical Commissions (MMCs) on fitness and limited fitness and is the result of an overly formalised approach to medical examinations and assessment of the degree of fitness for military service.*

This approach to medical examinations by Military Medical Commissions (MMCs) contradicts the international experience of NATO, the UK and the US, described by the Human Rights Centre "Principle" NGO in an analytical study on the system of determining fitness for service<sup>12</sup>. In particular, according to the principles of fitness assessment reflected in the NATO manual on the assessment of fitness for military missions for military personnel, a soldier with more than one medical condition may be declared unfit to participate in a NATO mission due to the possible adverse effect of the concomitant pathology.

It is worth noting that with the beginning of the full-scale invasion of the Russian Federation and the increase in the pace of mobilisation, an acute problem of inefficiency in the conduct of medical examinations by Military Medical Commissions (MMCs) arose due to the deliberate disregard for the procedure and failure to take into account the individual health characteristics of persons. As a result, the number of complaints about the formal nature of medical examinations and the failure to take into account the medical indications of persons undergoing the Military Medical Commissions (MMCs) has increased.

In particular, situations have become increasingly publicised when persons who, for health reasons and medical indications, should be declared unfit for military service in accordance with the Schedule of Diseases, cannot obtain confirmation of their unfitness for military service, as the issuance of the relevant decision is seen by the officials of Military Medical Commissions (MMCs) as a way of obtaining unlawful benefit, regardless of the existence of objective grounds for declaring a person unfit.

Thus, the obligation to conduct military medical examination (MME) is vested solely in Military Medical Commissions (MMCs), but vesting Military Medical Commissions (MMCs) with such discretion requires that the following "fuses" against illegal activities be enshrined in the legal act: effective review of Military Medical Commission (MMC) decisions to protect the rights of servicemen; effective implementation of an electronic medical information system in Military Medical Commissions (MMCs) activities to ensure that all medical documents for each serviceman are quickly obtained, medical confidentiality is respected and the possibility of falsification of such documents is reduced; implementation of an electronic document management system electronic document management system between Military Medical Commissions (MMCs), military units and civilian institutions healthcare institutions.

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<sup>12</sup> <https://pryncyp.com/publications/%D0%B4%D0%BE%D1%81%D0%BB%D1%96%D0%B4%D0%B6%D0%B5%D0%BD%D0%BD%D1%8F-%D1%89%D0%BE%D0%B4%D0%BE-%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC%D0%B8-%D0%B2%D0%B8%D0%B7%D0%BD%D0%B0%D1%87%D0%B5%D0%BD%D0%BD%D1%8F-%D0%BF%D1%80%D0%B8%D0%B4%D0%B0%D1%82%D0%BD%D0%BE%D1%81%D1%82%D1%96-%D0%B4%D0%BE-%D1%81%D0%BB%D1%83%D0%B6%D0%B1%D0%B8>



## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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### FOR REFERENCE

NATO's Red, Yellow and Green approach<sup>13</sup> to assessing an individual's fitness for duty is a conceptual framework for reflecting the degree of risk that an individual may not be able to successfully complete a mission for medical reasons.

**The successful completion of a mission for a serviceman is determined by the following five criteria:**

- 1) completion of deployment (i.e. no need for early repatriation);
- 2) the ability to perform all of their duties without restriction during the deployment period so as not to jeopardise the success of the mission;
- 3) no aggravation of their condition that threatens the safety of others;
- 5) no significant additional requirements for medical care/assessment compared to garrison requirements;
- 6) no significant deterioration of the medical condition as a result of the mission.

**A person's readiness to participate in a mission is assessed as:**

**RED:** high risk of failure based on one or more of the five criteria above - unfit for mission.

**GREEN:** low risk of failure for one or more of the five criteria above - fit for mission.

**YELLOW:** Moderate risk of failure based on one or more of the five criteria above. To determine this level of risk, the physician estimates the likelihood of deployment based on the nature of the condition, his or her own experience with the condition, and the expected deployment environment.

*For example, a person's diagnosis of two diagnoses, each of which is classified as "yellow", may be grounds for declaring a person unfit to participate in a NATO military mission, although these diagnoses cannot prevent participation in a NATO military mission.*

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13 <https://www.sto.nato.int/publications/STO%20Technical%20Reports/Forms/Technical%20Report%20Document%20Set/docsethomepage.aspx?ID=2770&FolderCTID=0x0120D5200078F9E87043356C409A0D30823AFA16F6010066D541ED10A62C40B2AB0FEBE9841A61&List=92d5819c-e6ec-4241-aa4e-57bf918681b1&RootFolder=%2Fpublications%2FSTO%20Technical%20Reports%2FSTO%20DTR%20DHFM%20D174>

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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### CASE 1

*Law enforcers exposed the head of a municipal medical institution on receiving an undue benefit of USD 3,000 for a certificate of unfitness for military service<sup>14</sup>.*

*According to the investigation, the serviceman, who had certain illnesses, applied to the head of the Military Medical Commission, the head of the branch of the municipal non-profit enterprise "Consultative Diagnostic Centre", for a Military Medical Commission with subsequent exclusion from military treatment.*

*The latter stated that, allegedly, regardless of any existing illnesses, a certificate of unfitness for military service with exclusion from the register would be issued only if he was given **USD 3,000**<sup>15, 16</sup>.*

### CASE 2

*The Odesa Specialised Defence Prosecutor's Office of the Southern Region of Ukraine initiated criminal proceedings on the grounds of a criminal offence under Part 4 of Article 425 of the Criminal Code of Ukraine regarding the possible negligence of military service by officials of the Berezivskiy Territorial Centre for Recruitment and Social Support (TCRSS) of Odesa region. In the course of the pre-trial investigation, investigators are checking the legality of the citizen's conscription for military service, taking into account his health condition (**epilepsy**)<sup>17</sup>.*

*In addition, the Mykolaiv Specialised Defence Prosecutor's Office of the Southern Region initiated criminal proceedings on the grounds of a criminal offence under Part 4 of Article 425 of the Criminal Code of Ukraine regarding possible negligence of military service by medical officers of a military unit in Mykolaiv region.*

*During the pre-trial investigation, investigators check the timeliness of providing qualified emergency medical care to a serviceman after an **epileptic attack**.*

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14 <https://kyiv.npu.gov.ua/news/3-000-dolariv-ssha-za-dovidku-pro-neprydatnist-do-viiskovoi-sluzhby-politseiski-kyieva-zatrymaly-zaviduvacha-medzakladu>

15 <https://www.ukrinform.ua/rubric-kyiv/3691037-u-kyievi-golovu-vlk-vikrili-na-habari-za-znatta-z-vijskovogo-obliku.html>

16 <https://reyestr.court.gov.ua/Review/112680002>

17 <https://vppdr.gp.gov.ua/ua/news.html? m=publicationss c=views t=recsid=339596>

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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### CASE 3

*The serviceman filed a lawsuit with the administrative court against the military unit's Military Medical Commission (MMC), in which he asked, in particular, to declare **unlawful and cancel the decision of the garrison Military Medical Commission (MMC) of the military unit, which was issued by a certificate of the garrison Military Medical Commission (MMC) of the military unit dated 10.11.2022, according to which the plaintiff was found to be partially fit for military service, and to oblige the military serviceman to undergo a second medical examination.***

*The plaintiff argued that the complaints about his **epilepsy had been ignored by Military Medical Commissions (MMCs), and that he had not been examined by doctors of other specialities during the medical examination, although the need for an appropriate examination was evident from his previous medical examinations.***

*The Sixth Administrative Court of Appeal, in its ruling of 10.05.2023, noted that the decision of Military Medical Commissions (MMCs) did not show that the defendant had carried out a full and comprehensive analysis and taken into account all medical indicators regarding the plaintiff's health. The judicial panel concluded that the decision of the garrison Military Medical Commission (MMC) of the military unit was unlawful and ordered the defendant to re-examine the serviceman*

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**Corruption risk 10.**

Refusal to provide a referral for medical examination to persons who were mobilised into the Armed Forces of Ukraine without undergoing a military medical examination (MME) in order to obtain an unlawful benefit

**RISK DESCRIPTION**

Paragraph 6.1 of Chapter 6 of Section II of Order No. 402 provides that servicemen are referred for Military Medical Commissions (MMCs):

- direct superiors from the commander of a separate unit, his equals and above, and regular military officers,
- by the heads of Territorial Centres for Recruitment and Social Support (TCRSSs),
- Heads (managers) of healthcare facilities at the place of treatment, military authorities and units of the Military Law Enforcement Service of the Armed Forces of Ukraine,
- by the prosecutor's office,
- by the court in the manner and for the purpose specified in this Regulation.

Direct superiors from the commander of a separate unit, his equals and above have the right to send subordinate servicemen for a medical examination by the Military Medical Commission (MMC) in order to determine the degree of fitness for military service on the recommendation of a doctor, if a serviceman is found to have diseases or trauma (wounds, contusions, injuries) during the examination or treatment that may limit his fitness or cause his inability to perform military service.

*According to an anonymous interview and reports received by the Legal Hundred NGO hotline, at the beginning of the full-scale invasion, a significant number of people were mobilised without undergoing a medical examination in the face of urgent need.*

*However, Order No. 402 currently does not provide for a procedure for mandatory referral of servicemen who were mobilised without undergoing a medical examination.*

Given that the decision to send a serviceman on military service for a medical examination is mainly within the authority of military unit commanders, there is a need to legally regulate the procedure for sending servicemen for military medical examination (MME) in order to prevent irreversible deterioration of their health and to prevent abuse by commanders due to their unlimited powers.

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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*In addition, it would be advisable to enshrine in law the right of a serviceman to undergo military medical examination (MME) and, accordingly, the obligation of commanders to provide a referral to a serviceman for military medical examination (MME) or a justified written refusal.*

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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### Corruption risk 11.

Involvement of Military Medical Commission (MMC) officials in corruption schemes for smuggling men of military age across the state border of Ukraine

#### RISK DESCRIPTION

In accordance with certain provisions of Part 6 of Article 37 of the Law of Ukraine "On Military Duty and Military Service", citizens of Ukraine who are, in particular, declared unfit for military service by Military Medical Commissions and are excluded from military registration at the relevant district (city) territorial recruitment and social support centres are subject to exclusion from military registration.

In accordance with paragraph 26 of the Rules for Crossing the State Border by Citizens of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine of 27.01.1995 No. 57, in case of introduction of a state of emergency or martial law on the territory of Ukraine, the right to cross the state border, except for the persons specified in paragraphs. 21 and 22 of these Rules, also have other persons liable for military service who are not subject to call-up for military service during mobilisation<sup>19</sup>. This provision does not apply to persons specified in subpara. 2, 3 of part 3 of Article 23 of the Law of Ukraine "On mobilisation preparation and mobilisation", as well as paragraph 2<sup>14</sup> of these Rules.

At the same time, the decision to declare a person unfit for military service and to exclude him or her from the military register is within the discretionary powers of the Military Medical Commission (MMC). It is these discretionary powers, multiplied by the lack of clear legal regulation of the activities of Military Medical Commissions (MMCs), that become the biggest corruption factor in the activities of Military Medical Commissions (MMCs).

*The constant interaction of Territorial Centres for Recruitment and Social Support (TCRSSs) with Military Medical Commissions (MMCs) leads to the emergence of strong official and personal ties between Territorial Centre for Recruitment and Social Support (TCRSS) officials and members/chairman of Military Medical Commissions (MMCs), which, in the context of increased demand for obtaining illegal documents required to travel abroad and avoid mobilisation, contributes to the spread of corruption offences and the development of sustainable corruption schemes.*

In this regard, law enforcement agencies systematically expose corruption schemes organised by third parties, in which the participation of Military Medical Commissions (MMCs) is limited to the preparation of deliberately illegal decisions of Military Medical Commissions (MMCs) on unfitness for military service with exclusion from the military register.

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19 <https://zakon.rada.gov.ua/laws/show/57-95-%D0%BF#Text>

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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### CASE 1

*Under the procedural supervision of prosecutors of the Prosecutor General's Office, a pre-trial investigation is being conducted in criminal proceedings on the facts of organising evasion from military service during mobilisation. As part of the investigation, **nearly 100 authorised searches were conducted, and** relevant documents were found and seized.*

*According to the investigation, officials of the district Territorial Centres for Recruitment and Social Support (TCRSSs) in the regions, **acting jointly with members of Military Medical Commission (MMC)**, with the mediation of third parties, set up a scheme to issue certificates declaring men unfit for military service for health reasons. Subsequently, those liable for military service were removed from the military register. They used the certificates of unfitness for military service to travel abroad. The average cost of such a service was **USD 6,000**<sup>20</sup>.*

### CASE 2

*SBI officers detained the deputy head of a department of the Ministry of Defence of Ukraine for illegally processing documents on removing a serviceman from military registration for **unimpeded travel abroad**. The official took **USD 9,000** for his "services". For this money, the official prepared a conclusion of Military Medical Commission (MMC) on his unfitness for military service <sup>21</sup>.*

*The official is suspected of smuggling people across the state border on the basis of certificates of unfitness for military service.*

### CASE 3

*Under the procedural supervision of the Kyiv City Prosecutor's Office, the head of a department of one of the district Territorial Centres for Recruitment and Social Support (TCRSSs) was served a notice of suspicion of organising illegal trafficking of persons across the state border of Ukraine. Thus, in exchange for a monetary reward, he promised to issue Military Medical Commission (MMC) certificates for men liable for military service, according to which they were declared unfit for military service for health reasons with their subsequent exclusion from military registration. The cost of issuing the necessary documents was **USD 6,000 – 7,000**<sup>22</sup>.*

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20 <https://gp.gov.ua/ua/posts/maize-100-obsukiv-u-viiskkomatax-11-regionei-vikrito-masstabnu-sxemu-uxilennya-vid-prizovu>  
21 [dbr.gov.ua/news/dbr-zatrimalo-posadovcya-minoboroni-ukraini-yakij-za-habari-perepravlyav-vijskovozobov'yazanih-za-kordon](http://dbr.gov.ua/news/dbr-zatrimalo-posadovcya-minoboroni-ukraini-yakij-za-habari-perepravlyav-vijskovozobov'yazanih-za-kordon)  
22 [kyiv.gp.gov.ua/ua/news.html? m=publicationss t=recsid=335215sfp=200](http://kyiv.gp.gov.ua/ua/news.html? m=publicationss t=recsid=335215sfp=200)

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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### CASE 4

*Under the procedural supervision of the Kharkiv Specialised Defence Prosecutor's Office of the Eastern Region, the head of Territorial Centres for Recruitment and Social Support (TCRSSs) of Kharkiv and the head of Military Medical Commission (MMC) of Territorial Centres for Recruitment and Social Support (TCRSSs) were served with a notice of suspicion. The suspects are charged with forgery in office, and the head of the military enlistment office is also charged with organising the illegal transfer of persons across the state border of Ukraine (Part 1 of Article 366, Parts 2, 3 of Article 332 of the Criminal Code of Ukraine).*

*According to the investigation, the official was in charge of organising the illegal cross-border trafficking of potential evaders. By prior conspiracy with the head of the military registration and enlistment office, he signed and issued forged documents to persons liable for military service with a note on their unfitness for military service without their actually passing the military registration and enlistment office. The monetary reward for such services was **USD 5,000-7,000**<sup>23</sup>.*

### CASE 5

*According to the National Agency, since March 2022, two persons have systematically crossed the state border as drivers of vehicles. At the same time, between March 2022 and July 2023, 93 men travelled abroad as passengers with these individuals, 73 of whom had not returned as of 10.07.2023.*

*According to the information contained in the Arkan system, the men who crossed the border with these drivers were not subject to mobilisation on the basis of para. 3, part 1, Article 23 of the Law of Ukraine "On mobilisation training and mobilisation" (being recognised as persons with disabilities or, according to the conclusion of the Military Medical Commission (MMC), temporarily unfit for military service for a period of up to six months (with subsequent medical examination)).*

*And the fact that the head of one of the regional Territorial Centres for Recruitment and Social Support (TCRSSs) and his family members repeatedly crossed the state border with these individuals may indicate their joint participation in organising the illegal crossing of the state border by men who are liable for military service.*

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<sup>23</sup> <https://gp.gov.ua/ua/posts/na-xarkivshhini-kerivnika-viiskkomatu-ta-golovu-vlk-pidozryuyut-u-sluzbovomu-pidroblenni-ta-perepravlenni-uxilyantiv-cerez-kordon>



## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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*In addition, out of 47 persons registered in one of the district Territorial Centres for Recruitment and Social Support (TCRSSs) in this region and found temporarily unfit for military service by Military Medical Commissions (MMCs), only 10 persons were found temporarily unfit for military service by Military Medical Commissions (MMCs) upon preliminary medical examination (before the full-scale invasion of Ukraine by the Russian Federation).*

*Of the 47 persons, **34** crossed the state border of Ukraine in the direction of "exit" within a short period of time after receiving Military Medical Commissions (MMCs)'s conclusion and did not return to the territory of Ukraine.*

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**Corruption risk 12.**

Corrupt arrangement when making a decision to grant a person a deferment from conscription for health reasons

**RISK DESCRIPTION**

In accordance with clause 3.10 of Chapter 3, Section II of Order No. 402, in wartime and during mobilisation, for a special period, a person liable for military service is granted a deferment from conscription for health reasons for a period of 2 to 6 months, depending on the disease (injury, wound, contusion, mutilation) and the expected duration of treatment.

Upon expiry of the deferment, persons liable for military service are examined to determine their fitness for military service.

*Order No. 402 does not provide for a procedure for making a decision on the postponement of conscription for health reasons, nor does it provide for the form of such a decision. In addition, there is no requirement to determine the severity of the disease, which will determine the duration of the health-related postponement or non-postponement.*

Therefore, granting a person a deferment from conscription for health reasons and its duration depends solely on the subjective assessment of the members/head of Military Medical Commissions (MMCs).

Given the fact that the period of deferment may vary, a separate schedule of illnesses should be developed, similar to the one used to determine the degree of fitness for military service, which will determine the severity of the disease (trauma, injury, contusion, mutilation) and the required period of deferment for health reasons.

In addition, when deciding on the postponement of conscription for health reasons due to an injury, it is advisable to apply the Classification of Injuries by Severity, approved by the Order of the Ministry of Health of Ukraine of 04.07.2007 №370.

At the same time, this section should include a list of grounds for extending such a delay.

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If, by the decision of Military Medical Commissions (MMCs), a person is found to be in need of an extension of the deferral for health reasons, a corresponding decision of Military Medical Commissions (MMCs) must be issued.

An important element of ensuring an effective assessment of the state of a person liable for military service is to enter all medical documents into the Electronic Healthcare System (EHS) and provide the Military Medical Commission (MMC) with uninterrupted access to this system.

*Thus, after the implementation of the relevant changes and the provision of computer equipment with access to the electronic healthcare system (EHS) for both doctors who are members of Military Medical Commissions (MMCs) and all doctors of municipal and state healthcare institutions, a significant narrowing of the excessive discretionary powers of Military Medical Commissions (MMCs) in deciding whether to grant a deferment from conscription for health reasons can be achieved.*

13

**Corruption risk 13.**

Manipulations in determining military specialities for which a person previously recognised as partially fit for military service may be suitable

**RISK DESCRIPTION**

In accordance with clause 20.3 of Chapter 20 of Section II of Order No. 402, a decision on limited fitness for military service may be issued during the medical examination of servicemen and other persons by Military Medical Commissions (MMCs), among other things.

Simultaneously with the decision of Military Medical Commissions (MMCs), on an individual basis and taking into account the military speciality, position held, age, work actually performed, and the fitness of the person who has undergone a medical examination, the decision in an arbitrary form indicates which types of service and work are contraindicated for this person. Persons recognised as partially fit for military service are unfit for service in the airborne assault troops, naval forces, marines, special structures (except for support units).

Servicemen who are recognised as partially fit for military service are fit for service in support units, Territorial Centres for Recruitment and Social Support (TCRSSs), institutions, organisations and educational establishments. Together with the decision on limited fitness for military service, Military Medical Commission (MMC) adopts a decision on fitness for military service in a military speciality.

*However, Order No. 402 does not regulate the procedure for determining the military specialities for which a person may be found fit in case of being declared restrictedly fit for military service.*

*The absence of a defined algorithm for assessing the suitability of a serviceman or person liable for military service for a military speciality may serve as a basis for abuses by Military Medical Commissions (MMCs) in the selection of military specialities, and also creates legal uncertainty, which makes it difficult to understand the grounds for appealing against such a resolution of Military Medical Commissions (MMCs) in court, given that the courts are only competent to assess the procedural aspects of the adoption of resolutions of Military Medical Commissions (MMCs).*

An additional corruption factor is that Order No. 402 also does not specify which specific medical parameters are considered key to recognising a person as partially fit for military service, especially when there are multiple diseases or conditions.

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**Corruption risk 14.**

Abuses in establishing the causal link between injuries (wounds, contusions, mutilations) related to the defence of the Motherland

**RISK DESCRIPTION**

In accordance with paragraph 27 of part 3 of Article 87 of the Law of Ukraine "On the Statute of the Internal Service of the Armed Forces of Ukraine", in addition to the requirements set out in Articles 82-84 of this Statute, the head of the brigade medical service is obliged to draw up a certificate of the circumstances of the injury (wound, contusion, mutilation) in accordance with the established procedure.

Also, parts 3, 4 of Article 260 of this Law stipulate that a certificate on the circumstances of injury (wounding, contusion, mutilation) is drawn up by the chief of the medical service of a military unit, as a rule, after conducting an appropriate investigation of the circumstances of the injury (wounding, contusion, mutilation). In case the situation does not allow to provide a certificate on the circumstances of the injury (wound, contusion, mutilation) before the serviceman who received the injury (wound, contusion, mutilation) is sent for treatment outside the location of the military unit, such a certificate is sent to a health care institution or territorial recruitment and social support centre in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

At the same time, if the injury (wound, contusion, mutilation) of a serviceman is caused by the actions of the enemy, the relevant investigation of the circumstances of the injury (wound, contusion, mutilation) is not conducted.

A certificate on the circumstances of the injury (wound, contusion, mutilation) is drawn up within five days and sent to a healthcare facility or territorial recruitment and social support centre within the same period in accordance with the procedure established by the Cabinet of Ministers of Ukraine (part 5 of Article 260 of the Law of Ukraine "On the Statute of the Internal Service of the Armed Forces of Ukraine").

*Currently, the Law of Ukraine "On the Statute of the Internal Service of the Armed Forces of Ukraine" provides that a certificate of the circumstances of an injury (wound, contusion, mutilation) is issued by the head of the medical service of a military unit and, depending on the circumstances of the injury, such a certificate may be issued either with or without an investigation.*

## SECTION II. ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCs)

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However, according to part 9, clause 18 of the Instruction on Investigation and Recording of Accidents with Servicemen, Occupational Diseases and Accidents in the Armed Forces of Ukraine, approved by the order of the Ministry of Defence of Ukraine of 27.10.2021 No. 332, on the basis of the order of the commander of the military unit, a certificate of the circumstances of the injury (wound, contusion, mutilation) is drawn up in duplicate in the form given in Annex 5 to the Regulation on Military Medical Examination in the Armed Forces of Ukraine, approved by the order of the Minister of Defence of Ukraine of 14.08.2008 No. 402, registered with the Ministry of Justice of Ukraine on 17.11.2008 under No. 1109/15800.

*At the same time, the certificate on the circumstances of the injury (wound, contusion, mutilation) provided in the above appendix must contain, in particular, the corner stamp of the military unit (institution) and the signature of the commander (chief) of the military unit. At the same time, such a certificate does not in any way indicate the need for its signature by the head of the medical service of the military unit.*

*The Instruction on the Investigation and Recording of Accidents with Servicemen, Occupational Diseases and Accidents in the Armed Forces of Ukraine does not specify the timeframe for the commander (chief) of a military unit to draw up and submit an order on the basis of which a certificate of the circumstances of the injury (wound, contusion, mutilation) is drawn up.*

In addition, representatives of the leadership of military units and medical institutions in a sociological study by the Human Rights Centre 'Principle' noted: "...at meetings with our leading surgeons and therapists, they say that the certificate of injury is not in the original and is not valid. And we cannot accept it, because we understand that the certificate was issued in a really illegal way, because the basis is the order. Firstly, they write "combat order", and sometimes just as an order to perform a combat task. I don't know where they get this from, because we just have a combat order, not an order to issue an order, and a combat order... And they write the wrong reason, and even worse, when the certificate is signed by the chief medical officer. This is also the case, and our Form 5 certificate must be signed by the unit commander."<sup>24</sup>

*Probably, in practice, the preparation of a certificate of the circumstances of an injury (wound, contusion, mutilation) should be as follows: on the basis of an order of the commander of a military unit (as provided for in the Instruction), the head of the medical service of the military unit prepares a certificate of the circumstances of the injury (as specified in the Statute of Internal Service of the Armed Forces of Ukraine) and then such a certificate is approved by the commander of the military unit (taking into account Annex 5 to Order No. 402).*

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24 [https://pryncyp.com/publications/sociological-research-the-path-of-the-wounded-needs-problems-and-vision-of-the-future \(p.20\)](https://pryncyp.com/publications/sociological-research-the-path-of-the-wounded-needs-problems-and-vision-of-the-future (p.20))

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*However, such a procedure is not enshrined in the above-analysed legal acts.*

Thus, due to imperfect legal regulation, there may be two procedures for drawing up a certificate of injury (signed by the head of the medical service of a military unit or the commander of a military unit).

Since the certificate is one of the primary documents required to establish the causal link between diseases (wounds, contusions, injuries, mutilations) related to the defence of the Motherland, the different procedure for its preparation and provision creates obstacles for servicemen to exercise their rights to rehabilitation, leave and receive appropriate payments.

At the same time, this lack of regulation not only complicates the work of Military Medical Commissions (MMCs), but can also become a formal basis for members/chairmen of Military Medical Commissions (MMCs) to abuse their powers in establishing the causal link between diseases (wounds, contusions, injuries, mutilations) related to the defence of the Motherland, in particular by creating artificial obstacles for servicemen.

## SECTION III.

# APPEALS AGAINST DECISIONS OF MILITARY MEDICAL COMMISSIONS (MMCS)

Statistics on appeals against decisions of Military Medical Commissions (MMCs) according to the information of Territorial Centres for Recruitment and Social Support (TCRSSs) and the Kyiv City Territorial Centre for Recruitment and Social Support (TCRSS)

Item No.	Region	Cancelled by court, regional Military Medical Commission (MMC) and Central Military Medical Commission (CMMC)		
		2021	2022	as of September 2023
1	Volyn	0	0	0
2	Zakarpattia	0	0	0
3	Ivano-Frankivsk	0	3	45
4	Ternopil	0	0	0
5	Kherson	-	0	0
6	Cherkasy	0	0	1
7	Chernihiv	0	0	0
8	Sumy	-	-	23
9	Luhansk	-	-	0
10	Mykolaiv	0	11	39
11	Zaporizhzhia	0	0	0
12	Kirovohrad	0	219	336
13	Odesa	4	0	23
14	Rivne	0	0	3
15	Kyiv city	0	0	0
16	Kharkiv	0	0	8
17	Poltava	0	0	0
<b>Total</b>		<b>4</b>	<b>233</b>	<b>478</b>

*We note that the Dnipropetrovs'k, Zhytomyr, Donetsk, Kyiv, Lviv, Khmelnytsky, Vinnytsia and Chernivtsi Territorial Centres for Recruitment and Social Support (TCRSSs) did not provide information on appealing against the decisions of Military Medical Commissions (MMCs).*

*These statistics clearly demonstrate both the ineffectiveness of appealing against the decisions of Military Medical Commissions (MMCs) and the low level of awareness of persons liable for military service and servicemen and women about ways to protect their rights.*



## SECTION III. APPEAL AGAINST DECISIONS OF MILITARY MEDICAL COMMISSIONS (MMCS)

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### **Corruption risk 15.**

Corruption conspiracy by Military Medical Commissions (MMCs) officials due to unclear pre-trial procedure for appealing against Military Medical Commissions (MMCs) decisions

#### RISK DESCRIPTION

Paragraph 3.3 of Chapter 3, Section 1 of Order No. 402 provides that complaints against actions (inaction) or decisions of non-staff Military Medical Commissions (MMCs) are submitted to regular Military Medical Commissions (MMCs) in accordance with the administrative and territorial areas of responsibility set out in Annex 2 to Order of the Ministry of Defence of Ukraine No. 608 of 16.11.2016 "On Approval of Administrative and Territorial Areas of Responsibility of Healthcare Institutions of the Armed Forces of Ukraine for the Organisation of Medical Care".

Pursuant to clause 3.4 of Chapter 3, Section 1 of Order No. 402, if the regular Military Medical Commission (MMC) finds an application or complaint for review (cancellation) of Military Medical Commissions (MMCs)'s decision to be justified, Military Medical Commissions (MMCs) of the regular Military Medical Commission (MMC) shall review the contested Military Medical Commission (MMC) decision or decide to refer the person for a second (control) medical examination.

Appeals to regular Military Medical Commissions (MMCs) are filed within the timeframe specified by the Law of Ukraine "On Citizens' Appeals" (clause 3.2 of Chapter 3, Section 1 of Order No. 402). According to Art. 17 of the Law of Ukraine "On Citizens' Appeals", a complaint against the decision that was appealed may be filed with a higher-level body or official within one year from the date of its adoption, but not later than one month from the date of familiarisation of the citizen with the decision.

*Complaints submitted after the deadline are not considered.*

Taking into account the fact that Military Medical Commissions (MMCs) inform persons about the acceptance of the Military Medical Commission (MMC) certificate/reference/minutes of the meeting almost immediately, it can be concluded that an appeal in the pre-trial procedure can be made within a month.

It is worth noting that the procedure for appealing against the decisions of Military Medical Commission (MMC) of Territorial Centres for Recruitment and Social Support (TCRSSs) differs from the procedure provided for other non-staff permanent Military Medical Commissions (MMCs). Appeals against actions (inaction) or decisions of Military Medical Commissions (MMCs) of district (city) Territorial Centres for Recruitment and Social Support (TCRSSs) are submitted by subordination to Military Medical Commissions (MMCs) of the Kyiv City Territorial Centre for Recruitment and Social Support (TCRSS), Sevastopol City Territorial Centre for Recruitment and Social Support (TCRSS), regional Territorial Centres for Recruitment and Social Support (TCRSSs), Territorial Centres for Recruitment and Social Support

### SECTION III. APPEAL AGAINST DECISIONS OF MILITARY MEDICAL COMMISSIONS (MMCS)

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(TCRSSs) of the Autonomous Republic of Crimea, and decisions (resolutions) of Military Medical Commissions (MMCs) of regional (Kyiv city) Territorial Centres for Recruitment and Social Support (TCRSSs) can be appealed to regular Military Medical Commissions (MMCs). However, Order No. 402 does not specify whether appeals against resolutions adopted by the

However, Order No. 402 does not specify whether appeals against resolutions adopted by the adopted by Military Medical Commissions (MMCs) of the regional (Kyiv city, Sevastopol city) Territorial Centres for Recruitment and Social Support (TCRSSs), Territorial Centres for Recruitment and Social Support (TCRSSs) of the Autonomous Republic of Crimea, to the regional Military Medical Commission (MMC) is a prerequisite for further appeal to the Central Administrative Court.

Such uncertainty may be the basis for expanding the discretionary powers of the Central Military Medical Commission (CMMC) to consider or, conversely, to refuse to consider a person's complaint on formal grounds, namely, failure to use the available remedy of appealing against decisions made by the Military Medical Commission (MMC) of the regional (Kyiv city, Sevastopol city) Territorial Centres for Recruitment and Social Support (TCRSSs), Territorial Centres for Recruitment and Social Support (TCRSSs) of the Autonomous Republic of Crimea, to the Military Medical Commission (MMC) of the region.

Thus, only the resolutions of the regional Military Medical Commission (MMC) and Central Military Medical Commission (CMMC) may be appealed in court (clauses 2.4.10 and 2.3.5 of Chapter 2 of Section I of Order No. 402).

At the same time, Order No. 402 does not contain a list of grounds for appeal (e.g., failure to take into account a serious illness by Military Medical Commissions (MMCs) during the medical examination of a person liable for military service or a serviceman; an error in determining the degree of impairment of the body's function as a result of an illness in accordance with the Schedule of Diseases; violation of the procedure for conducting a medical examination by Military Medical Commissions (MMCs)) and a clear step-by-step procedure for its implementation, which may lead to an increase in the number of unjustified appeals by individuals and their representatives against Military Medical Commissions (MMCs)'s decisions.

Also, Order No. 402 does not specify how regular Military Medical Commissions (MMCs) make decisions based on the results of reviewing the appealed Military Medical Commission (MMC) resolutions (by a majority of votes of Military Medical Commission (MMC) members / by a Military Medical Commission (MMC) member alone) and whether they require approval. Moreover, it is not specified what kind of document should be issued based on the results of the review of the complaint.

In accordance with clause 2.4.6 of Chapter 2, Section I of Order No. 402, a repeat or control medical examination may be conducted by the decision of the staff medical examination commission.

It should be noted that, based on the results of the review of the decisions of the non-staff Military Medical Commissions (MMCs), the regular Military Medical Commissions (MMCs) do not conduct medical examinations directly by members of the regular Military Medical Commission (MMC), they only make a decision to refer a person for a second medical examination.

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At the same time, Order No. 402 does not contain a procedure for such a referral, which is why the regular Military Medical Commission (MMC) has discretionary powers to choose Military Medical Commissions (MMCs) that will carry out such a medical examination.

It is likely that the person should be referred for a second medical examination to a different Military Medical Commission (MMC) than the one that conducted the initial medical examination. For example, if a person appeals against a certificate/record of a meeting of Military Medical Commissions (MMCs) that was adopted by Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (TCRSSs), the regular Military Medical Commission (MMC) (Central Military Medical Commission (MMC) or regional Military Medical Commission (MMC)) may refer the person for a second medical examination to the hospital Military Medical Commission (MMC) during the consideration of the appeal.

At the same time, Order No. 402 does not provide for restrictions that would make it impossible for a regular Military Medical Commission (MMC) to refer a person to the same Military Medical Commission (MMC) that conducted the initial medical examination, thereby violating the principle of objective decision-making. Also, the Order No. 402 does not regulate the timeframe for such a re-examination.

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### Corruption risk 16.

#### Comprehensive corruption service - 'turnkey' disability

#### RISK DESCRIPTION

In accordance with subparagraph b) of paragraph 2 of part 4 of Art. 26 of the Law of Ukraine "On Military Duty and Military Service", servicemen who perform military service by conscription during mobilisation, for a special period, military service by conscription of persons from among re-servicemen during a special period are discharged from military service during the period of martial law, in particular, for health reasons - on the basis of a conclusion (resolution) of the Military Medical Commission on the unfitness for military service with exclusion from the military register or on the unfitness for military service with re-examination in 6-12 months.

However, there are servicemen who, in the absence of medical indications, wish to complete their military service on the basis of a decision of Military Medical Commission (MMC) on their unfitness for military service by reaching corrupt agreements to obtain it through intermediaries.

In addition, in order to receive the relevant financial payments from the state, such servicemen wish to obtain a certificate of disability from the Medical Expert Committee on the basis of a forged decision of Medical and Social Expert Commission (MSEC) on their inability to perform military service.

Thus, in accordance with clause 19-3 of the Regulation on the Procedure, Conditions and Criteria for Establishing Disability, approved by the Resolution of the Cabinet of Ministers of Ukraine (CMU) of 03.12.2009, No. 1317<sup>25</sup>, the causal link between disability and injuries or other health damage sustained by persons who became disabled as a result of injuries or other health damage is established on the basis of a decision of the interdepartmental commission on establishing the fact of injuries or other health damage sustained by persons from explosives, ammunition and military weapons.

Para. 13 of the said Regulation stipulates that the degree of disability of servicemen and persons liable for military service (training) is set as a percentage for the purpose of paying insurance amounts under the state compulsory personal insurance on the day of consideration by the commission of documents, which must also include a copy of a medical certificate in the form approved by the Ministry of Defence and issued by a military medical institution or a territorial recruitment and social support centre in case a military medical commission declares a serviceman or person liable for military service (training) unfit for further service (training) due to injury (contusion, trauma or injury), disease, injury, trauma or mutilation), or illness.

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<https://zakon.rada.gov.ua/laws/show/1317-2009-%D0%BF#Text>

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In this regard, interns, doctors, representatives of NGOs, law enforcement officers, etc. who have appropriate connections among members of Military Medical Commissions (MMCs) and Medical and Social Expert Commission (MSEC) become intermediaries in the process of obtaining illegal benefits by committing corrupt acts.

#### **Participants in such a scheme may be:**

- Intermediaries (interns, doctors, representatives of NGOs, lawyers, etc.);
- members, the head of Military Medical Commissions (MMCs) - issue Military Medical Commission (MMC) resolutions, documents and referrals to the Medical and Social Expert Commission (MSEC) (in some cases, falsification of primary documents is used);
- members, and most often the head of the Medical and Social Expert Commission (MSEC), make the decision on granting a disability to a person.

Criminal proceedings initiated by law enforcement agencies in connection with such actions indicate that this corrupt service is widely used by both military personnel and members of commissions.

## CASE

*According to the investigation, in March 2023, a serviceman of the Armed Forces of Ukraine turned to the founder of a NGO (intermediary) to obtain information about the possibility of excluding himself from military registration and receiving a referral to the Medical and Social Expert Commission (MSEC) for registration of a disability group.*

*During a personal meeting in Khmelnytskyi, the founder of the NGO, acting intentionally, for selfish motives and for personal enrichment, informed the serviceman that he had connections and the ability to influence the head and members of Military Medical Commissions (MMCs) and the Medical and Social Expert Commission (MSEC) and would assist in the preparation of medical documents on the serviceman's health, issuing a certificate from Military Medical Commissions (MMCs) on his unfitness for military service with exclusion from military registration and receiving a referral to the Medical and Social Expert Commission (MSEC) to grant the serviceman a group II disability for life.*

*The conditions of such service were that he received an undue benefit in the amount of **USD 16,500**, of which **USD 8,500** was for influencing the head and members of Military Medical Commissions (MMCs) **and the remaining USD 8,000 was** for influencing officials of the Khmelnytskyi Regional Centre of the Medical and Social Expert Commission (MSEC).*

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*Otherwise, the decision on the military man's unfitness for military service and further procedures will not be made, to which the military man was forced to agree.*

*After the intermediary received the illegal benefit, he was exposed by police officers and notified of suspicion of committing a criminal offence under Part 3 of Article 369-2 of the Criminal Code of Ukraine.*

*By the decision of the Khmelnytskyi City District Court of Khmelnytskyi region dated 16.06.2023<sup>26</sup>, a preventive measure in the form of detention for a period until 11.08.2023 inclusive with the possibility of bail was imposed on the suspect in committing a crime under Part 3 of Art. 369-2 of the Criminal Code of Ukraine.*

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<sup>26</sup> <https://revestr.court.gov.ua/Review/111636041>

## SECTION III. APPEAL AGAINST DECISIONS OF MILITARY MEDICAL COMMISSIONS (MMCS)

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17

### **Corruption risk 17.**

#### **Involvement of intermediaries in corrupt arrangements with Military Medical Commission (MMC) officials**

#### **RISK DESCRIPTION**

Currently, "services" of mediation in reaching illegal corrupt agreements with the chairman/members of Military Medical Commissions (MMCs) are in high demand, given the desire of a significant number of Ukrainian citizens liable for military service to avoid mobilisation in one way or another.

Such agreements are hampered, among other things, by the lack of established deadlines for undergoing a medical examination by Military Medical Commissions (MMCs), the slowdown in the digitalisation of Military Medical Commission (MMC) activities and the introduction of electronic document flow between military units, Military Medical Commissions (MMCs) and healthcare facilities due to insufficient financial and logistical support.

Therefore, having the appropriate connections, intermediaries who are not formally related to the military service often enter into direct relations between Military Medical Commissions (MMCs) and persons liable for military service.

This corrupt influence contributes to the evasion of mobilisation by persons liable for military service by illegally obtaining decisions of Military Medical Commission (MMC) on their unfitness for military service with subsequent exclusion from military registration or deferment for health reasons.

**Such mediation may involve various actors, including:**

- employees of law enforcement and other government agencies;
- citizens without the status of officials or employees;
- employees of charitable and public organisations, etc.

Having the appropriate contacts with relatives, friends or personal contacts with doctors, officials of Military Medical Commissions (MMCs), etc., intermediaries find persons liable for military service who are interested in obtaining a Military Medical Commission (MMC) conclusion on their unfitness for military service or a medical deferment and offer their services.

Intermediaries use a variety of forms of bribery of officials: one-on-one cash transfers to doctors with corresponding telephone conversations, messenger messages and meetings, transferring funds to certain bank accounts, interacting with close relatives of doctors, purchasing certain goods and

### SECTION III. APPEAL AGAINST DECISIONS OF MILITARY MEDICAL COMMISSIONS (MMCS)

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services for officials, if necessary, applying measures against money laundering through individual entrepreneurs and private enterprises, etc.

There have also been cases of individuals posting advertisements on the Internet (advertising sites, but most often social networks) about "providing services with guaranteed results".

At the same time, it should be noted that the analysis of court practice shows that it is intermediaries in corrupt arrangements who are brought to justice, while members of Military Medical Commissions (MMCs) mostly avoid liability due to the difficulty of proving their involvement in the crime.

#### **CASE INVOLVING LAW ENFORCEMENT AND OTHER AUTHORITIES**

*According to the investigation, a district police officer in Chernivtsi region, acting intentionally, for mercenary motives and for personal enrichment, committed a series of illegal actions aimed at obtaining an unlawful benefit of USD 4,000 and EUR 1,000 from two individuals for influencing the decision of Military Medical Commission (MMC) to temporarily disqualify these citizens for military service for health reasons and granting a temporary deferral from mobilisation.*

*In turn, the law enforcement officer engaged his acquaintance, who works as the acting head of the social department of the Amalgamated Territorial Community (ATC), with a request to assist persons in obtaining a temporary deferral from mobilisation, both by providing advice and instructions on how to act and by unduly influencing the members of the commission to obtain a conclusion on temporary unfitness for military service for health reasons after the persons concerned had passed the medical examination.*

*Thus, the police officer involved his acquaintance, the aforementioned Amalgamated Territorial Community (ATC) official, through his official relations with the members of Military Medical Commissions (MMCs), in his activities aimed at obtaining an undue benefit for influencing the decision-making of Military Medical Commissions (MMCs) members<sup>27</sup>.*

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27 <https://reyestr.court.gov.ua/Review/110561926>



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## CASE INVOLVING CITIZENS WITHOUT THE STATUS OF OFFICIALS OR EMPLOYEES

*In Cherkasy region, law enforcement officers uncovered schemes to evade conscription by issuing certificates of unfitness<sup>28</sup>. According to the investigation, a 65-year-old doctor who is a member of the Military Medical Commission of one of the territorial centres for social support in the region set up an illegal "business" in Zhashkiv.*

*Together with other officials of Military Medical Commission (MMC), he "helped" citizens of conscription age to obtain conclusions about their unfitness for military service based on a fictitious diagnosis.*

*The intermediary was a 47-year-old unemployed resident of Smila, who, having acquaintances with doctors, arranged for them to issue fake medical certificates of fitness for military service for health reasons. The cost of such services ranged **from USD 3,000 to USD 6,000**.*

## CASE INVOLVING EMPLOYEES OF CHARITABLE AND NGOs

*The investigation established that in December 2022, the head of a charitable organisation, pursuing the goal of illicit enrichment, offered the head of the sales department of a retail chain to assist in influencing the decision of the head of Military Medical Commission (MMC) to issue a conclusion on the recognition of a person unfit for military service for health reasons, which would serve as an exemption from military service and the issuance of a relevant military registration document. The head of the charitable organisation estimated the cost of the relevant service at **USD 15,000**.*

*Subsequently, the prosecutor of the Kryvyi Rih Specialised Military and Defence Prosecutor's Office of the Southern Region and the accused head of the charity entered into a plea agreement, which was approved by the verdict <sup>29</sup> of the Nikopol City District Court of Dnipropetrovs'k Region on 16 February 2023.*

*Under the terms of the agreement, the suspect unconditionally pleaded guilty to the crime under Part 2 of Art. 369-2 of the Criminal Code of Ukraine, and the parties agreed to a fine of **UAH 34,000**.*

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<sup>28</sup> <https://www.npu.gov.ua/news/vydavaly-dovidky-pro-neprydatnist-na-cherkashchyni-pravookhorontsi-vykryly-skhemy-ukhlyennia-vid-pryzovu>

<sup>29</sup> <https://reyestr.court.gov.ua/Review/109049995>

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APPEAL AGAINST DECISIONS OF MILITARY  
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## CASE INVOLVING A MILITARY MEDICAL COMMISSION (MMC) MEMBER

*During the medical examination of a person by the hospital's Military Medical Commission (MMC), a surgeon, who was a member of Military Medical Commission (MMC), offered his "services" to influence the head of Military Medical Commission (MMC) in order to make a decision on his unfitness for military service and to exclude him from the military register in exchange for receiving an unlawful benefit of **USD 4,000**.*

*Subsequently, the said person, acting under the control of law enforcement agencies, handed over an undue benefit of **USD 4,000 to the surgeon**, after which the latter was immediately detained by law enforcement officers.*

*The surgeon's actions were classified under Part 2 of Article 369-2 of the Criminal Code of Ukraine. Based on the results of the pre-trial investigation, the prosecutor concluded a plea agreement with the member of Military Medical Commission (MMC).*

*According to this agreement, the accused unconditionally pleaded guilty to committing a criminal offence and agreed to be sentenced under Part 2 of Art. 369-2 of the Criminal Code of Ukraine in the form of a fine of 2000 tax-free minimum incomes (**UAH 34,000**) and an additional punishment in the form of deprivation of the right to hold positions related to the performance of administrative, economic and organisational and administrative functions in healthcare institutions for a period of 1 year<sup>30</sup>*

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30 <https://reyestr.court.gov.ua/Review/113943966>

### SECTION III. APPEAL AGAINST DECISIONS OF MILITARY MEDICAL COMMISSIONS (MMCS)

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18

#### **Corruption risk 18.**

Misappropriation of state budget funds through Military Medical Commissions (MMCs), Medical and Social Expert Commissions (MSECs)

#### RISK DESCRIPTION

Article 16-2(1)(b) of the Law of Ukraine "On Social and Legal Protection of Servicemen and Members of Their Families" provides, inter alia, that a one-time financial assistance is granted and paid in the amount of 400 times the subsistence minimum established by law for able-bodied persons as of 1 January of a calendar year, - in the case of a group I disability, 300 times the subsistence minimum established by law for able-bodied persons as of 1 January of the calendar year - in the case of a group II disability, 250 times the subsistence minimum established by law for able-bodied persons as of 1 January of the calendar year - in the case of a group III disability.

Also, the Resolution of the Cabinet of Ministers of Ukraine (CMU) of 28.02.2022 No. 168 "Issues of Certain Payments to Military Servicemen, Ranks and Commanders, Police Officers and Their Families During Martial Law" stipulates that the families of the deceased persons referred to in paragraphs 1-1-2 of this resolution are paid a one-time financial assistance in the amount of UAH **15,000,000**, which is distributed equally among all recipients, provided for in Article 16-1 of the Law of Ukraine "On Social and Legal Protection of Servicemen and Members of Their Families", except for citizens of the Russian Federation or the Republic of Belarus and persons permanently residing in the territories of these countries, persons convicted of high treason, collaboration, aiding and abetting the aggressor state.

The one-time financial assistance provided for in this paragraph shall also be paid to the families of the persons referred to in paragraphs 1-1-2 of this Resolution who died as a result of an injury (contusion, trauma, mutilation) received during the period of martial law while defending the Motherland, participating in hostilities or ensuring the implementation of measures for national security and defence, repulsion and deterrence of armed aggression, being directly in the areas of their conduct (implementation), in particular on the territory of Ukraine temporarily occupied by the Russian Federation, in the territory between the positions of the defence forces and the positions of the troops of the aggressor state, during the period of implementation of these measures, not later than one year after the injury (contusion, trauma, mutilation) (part 4.1 and 6, clause 2).

Given the problematic nature and complexity of obtaining the status of a person with a disability, it is not uncommon for the organiser of a corruption scheme to mislead former servicemen into accepting these amounts by offering them aid with furnishing the necessary documents and passing the procedures of Military Medical Commissions (MMCs) and the Medical and Social Expert Commission (MSEC).

### SECTION III. APPEAL AGAINST DECISIONS OF MILITARY MEDICAL COMMISSIONS (MMCS)

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In particular, due to the lack of knowledge and awareness of former servicemen about the procedure for receiving a one-time financial assistance from the state in case of obtaining the status of a person with a disability as a result of military service or military service, the fraudsters used the documents received from them, powers of attorney for the management of accounts and representation of interests, and seized state budget funds. One of the prerequisites for the effective implementation of this criminal scheme is collusion with officials of Military Medical Commission (MMC) and Medical and Social Expert Commission (MSEC), as evidenced by the investigation materials.

In this regard, it is worth noting the efforts of the Ministry of Defence of Ukraine to raise awareness of servicemen and women of their rights and obligations, including the receipt of financial benefits and the procedure for undergoing medical and psychiatric examinations after injury, by creating the "Care" (Turbota) website<sup>31</sup>, which describes in detail the algorithms for the wounded and answers questions arising during treatment, medical examinations, receipt of benefits, etc.

#### CASE

*According to the investigation, a group of people who were aware of the procedure for obtaining the status of a person with a disability as a result of war, had information that persons with disabilities as a result of war were paid a one-time financial assistance, entered into a criminal conspiracy and organised a scheme to misappropriate budget funds during the registration of disability.*

#### ***According to the distribution of functions within the group<sup>32</sup>:***

- The organiser of the scheme searched for combatants to apply for an invalidity group, obtained all the necessary documents from them to confirm their stay in the combat zone, and issued a power of attorney to authorise them to receive and process documents from authorities, institutions and organisations, as well as to open bank accounts and receive funds;*
- an accomplice in Kyiv, receiving the documents of combatants, falsified the necessary materials from medical institutions, examination results, and extracts from medical records. After forming the necessary package of documents, he sent them to the Ministry of Defence of Ukraine's Military Qualification Commission to obtain an extract from the minutes of the meeting of Central Military Medical Commission (CMMC), which confirms*

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<sup>31</sup> <https://turbota.mil.gov.ua/>

<sup>32</sup> <https://revestr.court.gov.ua/Review/93945251>

### SECTION III. APPEAL AGAINST DECISIONS OF MILITARY MEDICAL COMMISSIONS (MMCS)

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*the illness of combatants related to the defence of the Motherland. Subsequently, on the basis of these documents, the combatant was sent for examination by the Medical and Social Expert Commission (MSEC) to determine the disability group;*

- *the registrar of the Ternopil Regional Medical and Social Expert Commission (MSEC), knowing for certain the procedure for assigning disability groups directly to combatants and the intricacies of the necessary documents, provided them with "support".*

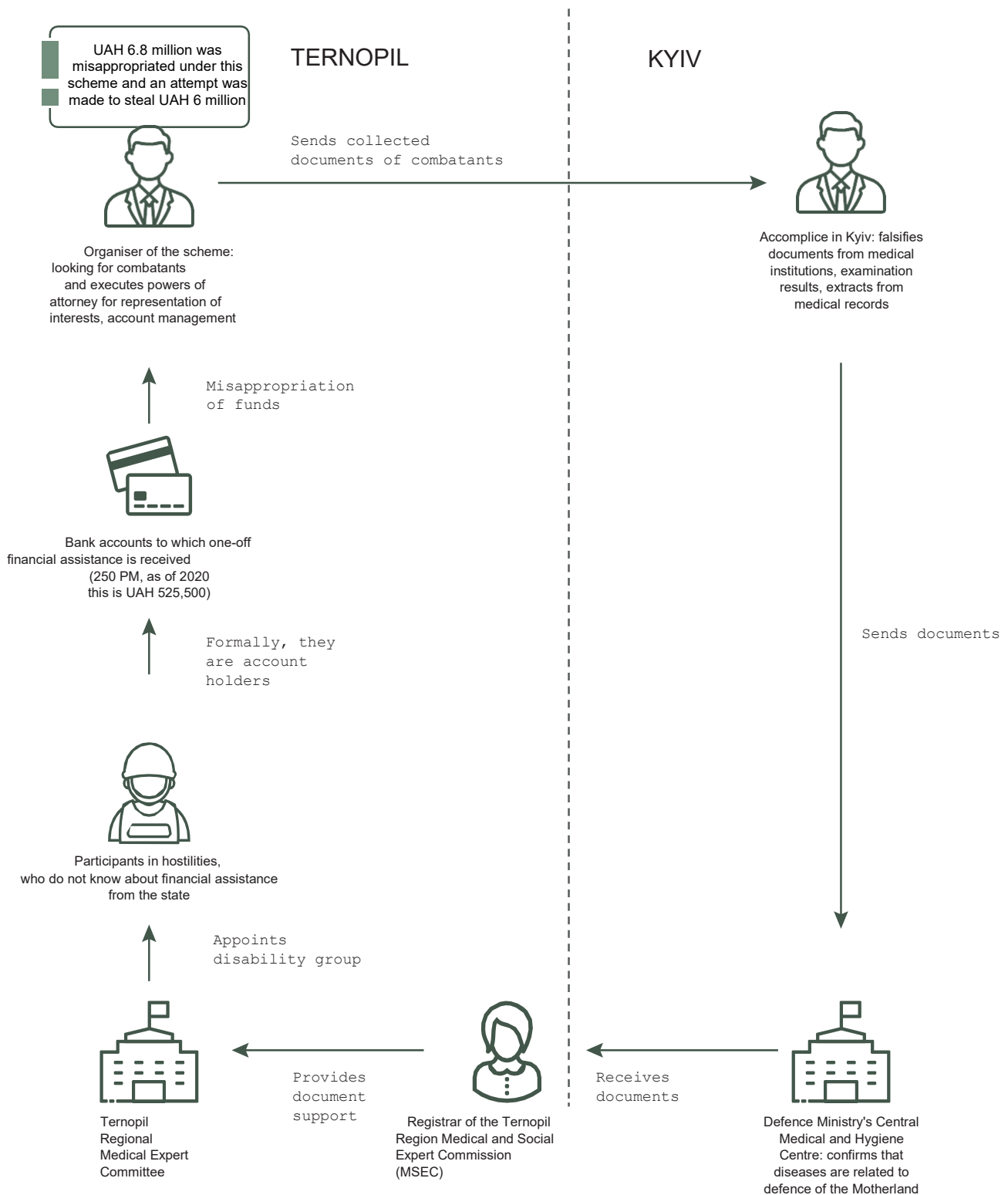
*During 2018-2019, the scheme organiser distributed information to residents of Ternopil region who are combatants that he could help them with their disability group and pension benefits paid to people with war-related disabilities.*

*At the same time, the organiser of the scheme, with the aim of seizing state budget funds through combatants, did not provide information that, in accordance with the Cabinet of Ministers of Ukraine (CMU), a person who has been granted the status of a person with a disability as a result of war is entitled to a one-time cash payment.*

*The investigation established that during the implementation of the scheme, the state suffered damage totalling **over UAH 6 million**.*

### SECTION III. APPEAL AGAINST DECISIONS OF MILITARY MEDICAL COMMISSIONS (MMCS)

## Scheme of misappropriation of funds from servicemen unaware of their rights through the connections of interested persons with Military Medical Commissions (MMCs) and the Medical and Social Expert Commission (MSEC)



## SECTION V. DIGITISATION

19

### **Corruption risk 19.**

Use of the unregulated procedure for attaching medical documents to Military Medical Commissions (MMCs) to extort unlawful benefits

### RISK DESCRIPTION

In accordance with part 3 of clause 3.4 of chapter 3 of section II of Order No. 402, doctors who are included in Military Medical Commissions (MMCs) from municipal or state-owned healthcare facilities, during the medical examination, get acquainted with medical records in the electronic healthcare system (EHS) and other medical documents provided by the person liable for military service that characterise his or her state of health, and enter the relevant medical records in the electronic healthcare system (EHS) based on the information received.

*However, the unregulated procedure for attaching medical documents of persons liable for military service to the Military Medical Commission (MMC) allows the Military Medical Commission (MMC) to disregard such documents, which leads to biased conclusions about the person's fitness/unfit/restricted fitness for military service.*

This also makes it difficult to appeal against the decisions of Military Medical Commissions (MMCs) in court, as applicants are unable to prove that they actually provided medical documentation that indicated the presence of the disease.

In this case, all material, technical, educational and practical conditions should be provided for doctors to enter all medical records into the electronic healthcare system (EHS).

And in case a certain document was not entered into the electronic healthcare system (EHS) by the doctor who conducted the examination for one reason or another (absence or temporary malfunction of computer equipment, lack of access to the electronic healthcare system (EHS) for technical reasons), the obligation to enter such a document into the electronic healthcare system (EHS) should be assigned to the family doctor by amending the Order of the Ministry of Health of Ukraine No. 504 of 19.03.2018 "On Approval of the Procedure for the Provision of Primary Health Care".

## CASE

*Military Medical Commission (MMC) did not take into account the plaintiff's health condition in full. According to the results of the X-ray examination, the plaintiff received the following conclusion (diagnosis): "X-ray signs of a small axial hernia of the oesophageal opening of the diaphragm of type 1; functional disorders in the form of moderate hypokinesia of the oesophagus".*

*The conclusions contained in the X-ray examination indicate significant disorders of the plaintiff's digestion and are the basis for declaring the plaintiff unfit or partially fit for military service in wartime in accordance with paragraph b) of Article 52 of the Classification of Diseases.*

*When considering the claim to appeal against the decision to declare a person fit, the court noted that the case file did not confirm that the plaintiff had submitted any medical document to Military Medical Commissions (MMCs) for consideration during the medical examination<sup>33</sup>.*



20

### Corruption risk 20.

## Use of paperwork for corrupt practices in Military Medical Commissions (MMCs)

### RISK DESCRIPTION

As provided for in paragraph 22.1 of Chapter 22 of Section II of Order No. 402, data on those who have undergone a medical examination (surname, name and patronymic, year of birth, military rank, military unit, month and year of call-up for military service, etc.), diagnosis and the decision of the Military Medical Commission (MMC) on the degree of fitness for military service and the causal relationship are recorded in the Book of Minutes of the Military Medical Commission (MMC) meetings.

In addition, the diagnosis and decisions of the medical commission are recorded, among other things:

- a) for military personnel - in the medical book, if necessary - in the certificate of the Military Medical Commission;
- c) for persons liable for military service and reservists - in the examination and medical examination card, and the content of the commission's resolution, in addition, in the military ID card and registration card.

If a person liable for military service or a reservist is diagnosed with an HIV-related illness, the diagnosis and the article of the Schedule of Diseases are not recorded in the military card and registration card. Reserve officers who have been declared unfit for military service by Military Medical Commission (MMC) and excluded from military registration, as well as persons liable for military service and reservists who are on training and declared unfit for further training, receive a Certificate of Illness.

At the same time, the Cabinet of Ministers of Ukraine approved the Procedure for the exchange of medical and other documents of servicemen between state and municipal healthcare institutions, state institutions of the National Academy of Medical Sciences, where servicemen were (are) treated, military units and territorial centres of complex and social support during the special period by Resolution No. 901 of 23.08.2023.

Prior to the adoption of this Procedure, all documents related to the passage of Military Medical Commissions (MMCs), as well as the issuance of leaves for the continuation of treatment or dismissal of servicemen, were submitted in paper form, which significantly complicated these processes, creating additional burdens and inconveniences for servicemen.

*It should be noted that paper-based document flow is the basis for corruption risks due to the lack of an electronic medical information system of Military Medical Commission (MMC), ways to record access to Military Medical Commission (MMC) medical records, thus creating*

*favourable environment for corrupt practices in determining the state of fitness for military service by means of falsification of documents. In particular, in the absence of a link to the electronic medical history of a person liable for military service, the process of falsifying the decisions of Military Medical Commissions (MMCs) is greatly simplified, while at the same time complicating the process of verifying their authenticity.*

According to the Ministry of Health, the deployment of the medical information system of Military Medical Commission (MMC), training of military doctors, capacity building and computerisation of institutions are underway. More than 1,700 laptops have already been transferred to military medical institutions<sup>34</sup>, funding has been allocated and the development of local networks of healthcare institutions of the Ministry of Defence of Ukraine is underway. However, the need for 1,000 laptops remains unmet.

At the same time, the premises where the staffed RECs are currently located still lack a local Internet connection, which makes it impossible for them to work with the electronic healthcare system (EHS) and conduct electronic document management.

As of September 2023, military doctors were being trained to work with the electronic healthcare system, as most military hospitals had not previously worked with the IT system, were unable to see medical records, and were in the process of implementing a medical information system and computerising hospitals.

For example, the introduction of an electronic medical information system of Military Medical Commission (MMC) and electronic document management in Military Medical Commission (MMC) processes, among other things, will minimise corruption risks by recording any changes in documents and monitoring the activities of each user.

At the same time, given the need to digitise huge amounts of documents and the need to attract significant material, technical and human resources for this purpose, paper-based document flow continues to exist, and thus the corruption component associated with it.

## CASE 1

*Law enforcement officers found that officials of the District Territorial Centre for Recruitment and Social Support (RTCRSS), acting jointly with members of Military Medical Commissions (MMCs), with the mediation of third parties, in return for a monetary reward of **up to USD 10,000**, set up a scheme to issue certificates declaring a person unfit for military service for health reasons and removing them from military registration<sup>35</sup>.*

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<sup>34</sup> <https://moz.gov.ua/article/news/udoskonalennja-vijskovo-likarskoi-ekspertizi-nad-chim-pracjue-moz>

<sup>35</sup> <https://od.npu.gov.ua/news/pravookhorontsi-prypynyly-masshtabnu-skhemu-vydachi-dovidok-vlk-pro-neprydatnist-do-vijskovo-sluzhby-natopolitsia>

*According to the investigation, the so-called 'evaders' were registered with Territorial Centre for Recruitment and Social Support (RTCRSS) within 1-2 days, underwent a military medical examination and, based on its results, were declared unfit for military service and excluded from military registration for health reasons.*

*During the documentation, law enforcement officers found that the "clients" did not even arrive in Bilhorod-Dnistrovskiy during Military Medical Commissions (MMCs), but later used the documents to travel abroad.*

*According to the investigation, to cover up their criminal activity, the RTCC and JV officials destroyed some of the official documents, including personal files, medical records and medical records of persons unfit for military service for health reasons, despite the fact that according to the order of the Ministry of Defence of Ukraine, such documents must be kept for at least 5 years, and it is prohibited to reduce this period.*

## CASE 2

*SBI officers completed an investigation into the head of the district Territorial Centre for Recruitment and Social Support (TCRSS), the acting head of Military Medical Commissions (MMCs) and a soldier-driver of the same centre, who, for an undue benefit, arranged a package of documents on deferment of mobilisation for a citizen liable for military service without any illnesses that would prevent him from performing military service for health reasons.*

*According to the investigation, for USD 3,000, the serviceman was provided with falsified medical documents and a conclusion of the Military Medical Commission. The package of "services" included the issuance of a temporary certificate of a person liable for military service with a note on temporary ineligibility for military service in wartime. This gave the evader the right to freely cross the state border of Ukraine<sup>36</sup>.*

## CASE 3

*The State Bureau of Investigation (SBI), in a joint operation with the Security Service of Ukraine (SSU), exposed and served a notice of suspicion to the deputy head of Central Military Medical Commission (CMMC), who organised a business of issuing certificates for persons liable for military service for money.*

*In one case, the deputy head of Central Military Medical Commission (CMMC) was approached by an acquaintance who heads a charitable foundation with a request to assist in*

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<sup>36</sup> <https://dbr.gov.ua/news/pered-sudom-postane-kerivnictvo-vijskkomatu-na-lvivshhini-yake-za-habari-spriyalo-nezakonnomu-perepravlennyu-cholovikiv-cherез-derzhavnij-kordon>

## SECTION V. DIGITISATION

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*resolving the issue of travelling abroad for the employee of the said charitable foundation to search for and bring humanitarian aid, as he was unaware of the procedure for volunteers to leave Ukraine.*

*The deputy head of Central Military Medical Commission (CMMC) said that such an exit should be formalised by issuing a certificate of unfitness for military service, which is untrue, and promised to arrange for such a certificate to be issued for a "reward" of **USD 5,000**.*

*During the searches of the suspect's place of work and residence, law enforcement officers found large amounts of cash in various currencies in the amount of **over UAH 5 million**, the origin of which is currently being established<sup>37</sup>.*

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<sup>37</sup> <https://dbr.gov.ua/news/dbr-vikrilo-nachalnika-centralnoi-vijskovo-likarskoi-komisii-yakij-virishiv-zbagatitsiya-koshtom-vijskovozobov'yazanih>

# CONSEQUENCES OF CORRUPTION RISKS IN THE ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMCS)

## STRATEGIC:

1. Possibility of unscrupulous and unprofessional persons entering Military Medical Commissions (MMCs) due to the lack of a clear procedure for forming Military Medical Commissions (MMCs) and appointing its members.
2. Violation of the rights of persons liable for military service and military personnel guaranteed by the state.
3. Reaching a critical level of distrust in doctors who are members of Military Medical Commissions (MMCs).
4. Artificially creating obstacles to the passage of military medical examination (MME) for persons liable for military service and military personnel.
5. Deformation of official relations between members of Military Medical Commissions (MMCs).
6. Reduction of the combat capability of the Armed Forces of Ukraine due to poor medical examinations of persons liable for military service and military personnel.
7. Delay in the process of recruiting for the Armed Forces due to the lack of a defined timeframe for medical examination;
8. Increased crime rates as a result of such criminal offences.

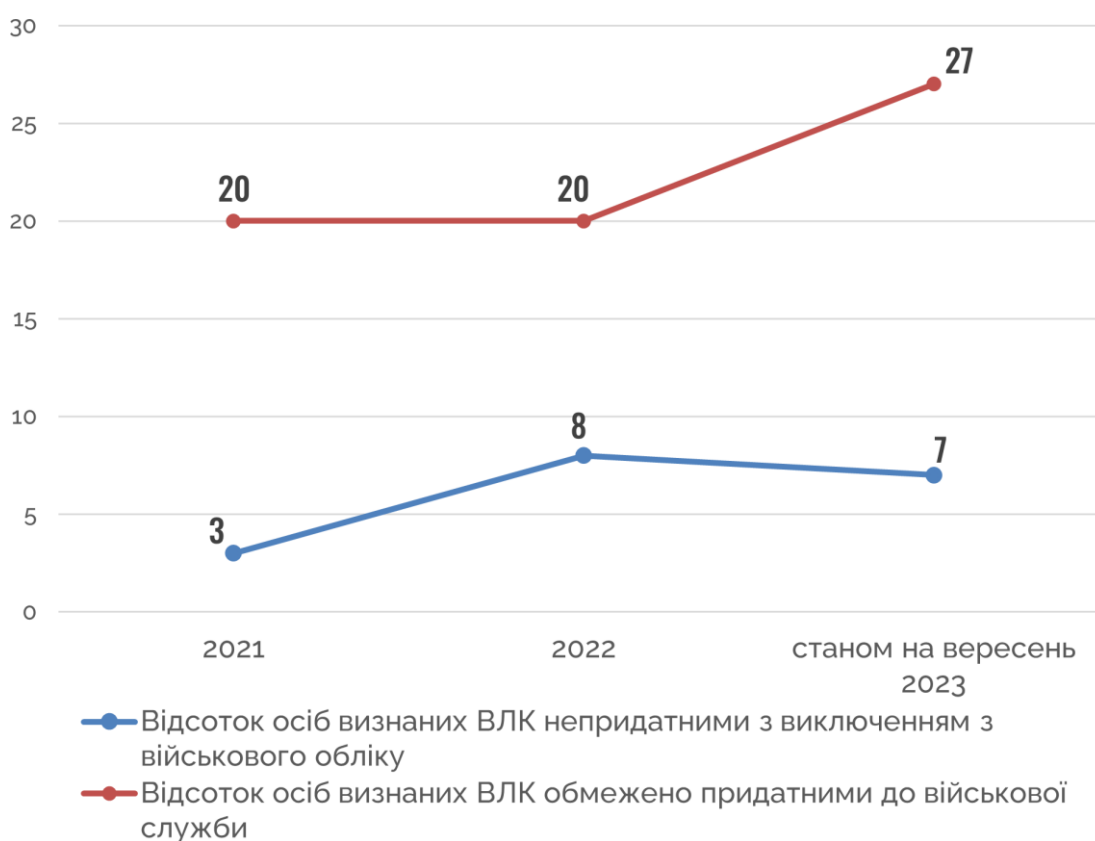
## LEGAL:

1. Acceptance of an offer, promise or receipt of an unlawful benefit by officials (Article 368 of the Criminal Code of Ukraine).
2. Fraud (190 of the Criminal Code of Ukraine).
3. Abuse of influence (Article 369-2 of the Criminal Code of Ukraine).
4. Forgery of documents, seals, stamps and forms, sale or use of forged documents, seals, stamps (Article 358 of the Criminal Code of Ukraine).
5. Abuse of power or position (Article 364 of the Criminal Code of Ukraine).
6. Illegal transportation of persons across the state border of Ukraine (Article 332 of the Criminal Code of Ukraine).

# Statistical information on the activities of Military Medical Commissions (MMCs) of Regional Territorial Centres for Recruitment and Social Support (RTCRESSs) for the period from 2021 to September 2023

The National Agency conducted a statistical analysis of the information received from regional TECs and JVs on the activities of Military Medical Commissions (MMCs), which covered data from 23 regions: Volyn, Dnipropetrovs'k, Zhytomyr, Zakarpattia, Ivano-Frankivsk, Ternopil, Kherson, Cherkasy, Chernihiv, Donetsk, Sumy, Luhansk, Mykolaiv, Zaporizhzhia, Kyiv, Lviv, Khmelnytskyi, Kirovohrad, Vinnytsia, Odesa, Rivne, Kharkiv, Poltava and Kyiv city.

## The average percentage of persons declared unfit by Military Medical Commission (MMC) with exclusion from the military register and restrictedly fit for military service for the period from 2021 to September 2023

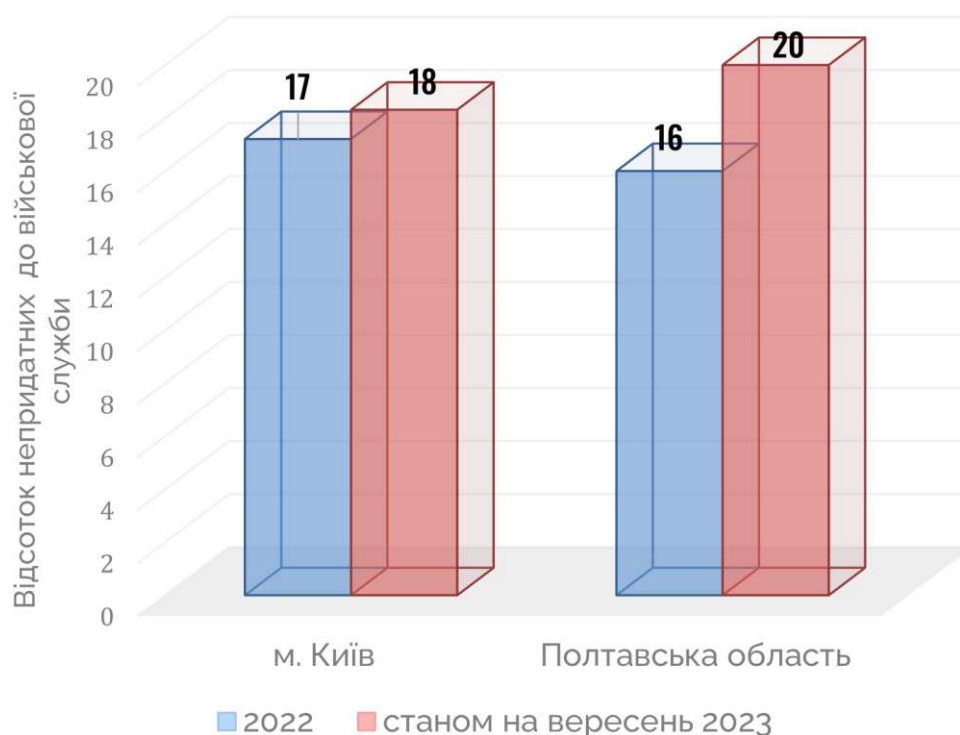


Percentage of persons declared unfit by Military Medical Commission (MMC) with exclusion from the military register

Percentage of persons declared partially fit by Military Medical Commission (MMC) with exclusion from the military register

*Given the information in the graph, it is worth noting that the average percentage of unfit persons more than doubled as of September 2023 compared to 2021 (by 4 percentage points). The average percentage of restricted eligible persons also increased (by 7 percentage points).*

## Regions - leaders in terms of the percentage of people declared unfit for military service



Percentage of persons declared unfit    Kyiv    Poltava region    2022    as of September 2023

*It should be noted that the analysis revealed a significant difference in the percentage of persons unfit for military service in Kyiv and Poltava region compared to the average in Ukraine.*

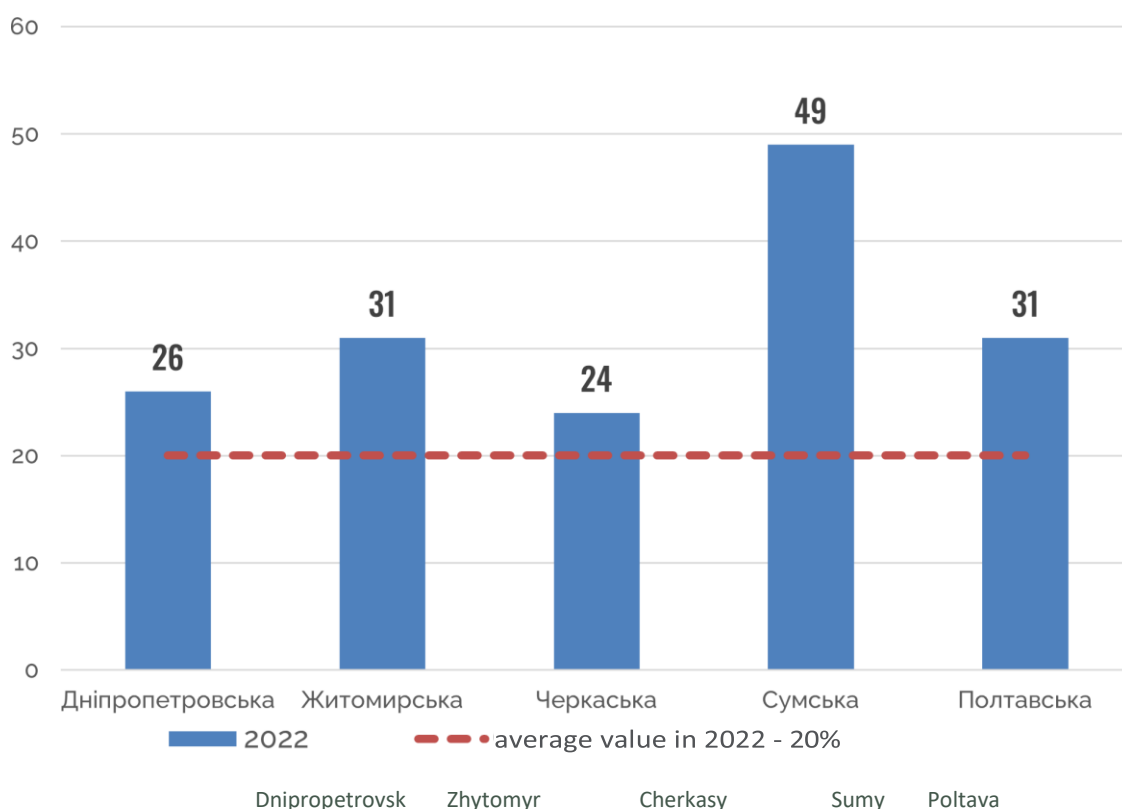
*In particular, in 2022, this figure was 9 points higher than the average in Kyiv, and 8 pp higher in Poltava region.*

*As of September 2023, this indicator exceeded the average value by 11 points in Kyiv and by 13 points in Poltava region.*

## WARNINGS

The graphs are based on information received from the regional Territorial Centres for Recruitment and Social Support (RTC<sub>RSSS</sub>) and Territorial Centres for Recruitment and Social Support (RTC<sub>RSSS</sub>) and the Kyiv City Territorial Centre for Recruitment and Social Support (RTC<sub>RSS</sub>). The indicators may contain statistical errors due to different approaches to data calculation and processing in different regions. The National Agency is not responsible for the accuracy and completeness of the statistical information prepared by the respective Territorial Centres for Recruitment and Social Support (RTC<sub>RSSS</sub>). The statistical analysis of the activities of Military Medical Commission (MMC) was conducted solely for the purpose of analysing corruption risks.

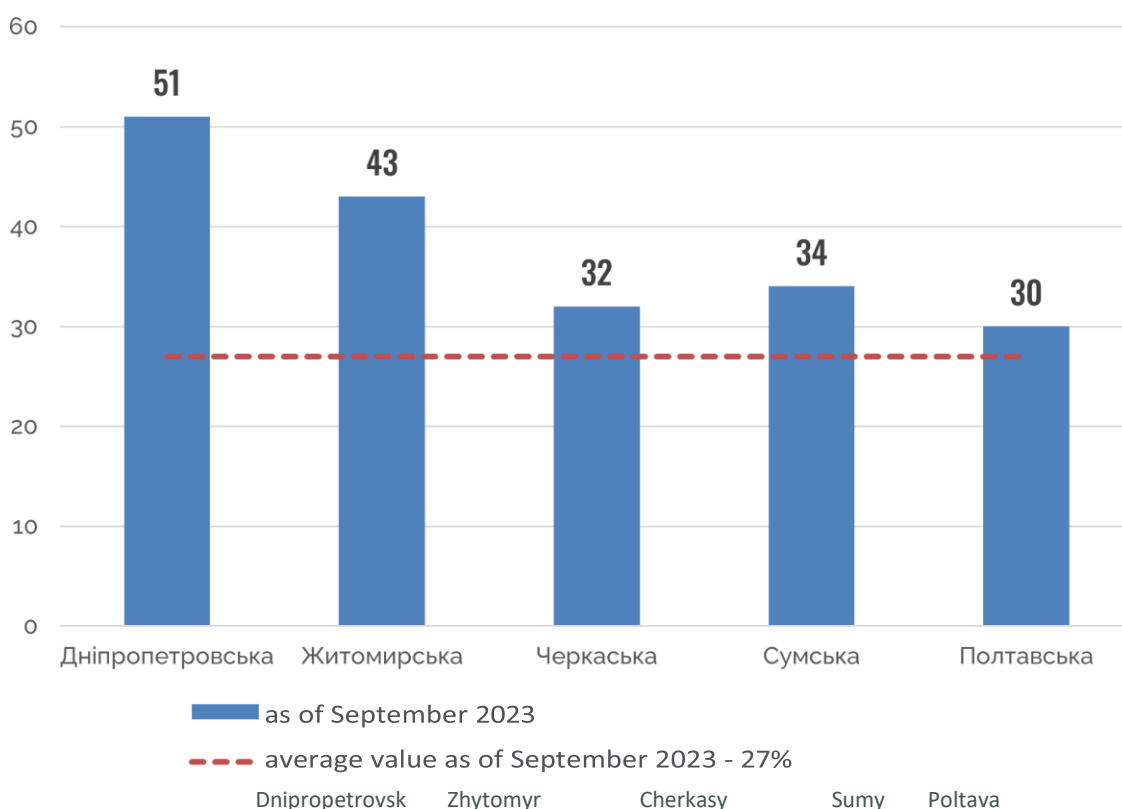
**Top 5 regions with an excess of the average (20%) of persons found partially fit by Military Medical Commissions (MMCs) for military service in 2022, in %**



*In 2022, the average exceeded the average in Dnipropetrovsk region by 6 percentage points, Zhytomyr region by 11 percentage points, Cherkasy region by 4 percentage points, Sumy region by 29 percentage points, and Poltava region by 11 percentage points.*



**Top 5 regions with an excess of the average (27%) of persons found partially fit by Military Medical Commissions (MMCs) for military service as of September 2013, in %.**



*As of September 2023, the average exceeded the average in Dnipro region by 24 percentage points, in Zhytomyr region by 16 percentage points, in Cherkasy region by 5 percentage points, in Sumy region by 7 percentage points, and in Poltava region by 3 percentage points.*

*In this regard, it is worth paying attention to a significant increase in the number of persons declared partially fit for military service in certain regions, which may indicate the existence of corruption risks in making this type of decision.*

## STATISTICAL INFORMATION ON THE ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMC<sub>s</sub>) OF REGIONAL TERRITORIAL CENTRES FOR RECRUITMENT AND SOCIAL SUPPORT (RTC<sub>RS</sub>SS)

### The five most commonly used articles of the Schedule of Diseases on the basis of which persons liable for military service are declared unfit for military service



2021  
рік



гіпертонічна  
хвороба  
III стадії



хвороби  
щитоподібної залози  
та порушення інших  
ендокринних залоз,  
усі типи цукрового  
діабету



артрози та інші  
ураження суглобів,  
хвороби м'яких  
тканин, остеопатії і  
хондропатії



короткозорість  
або  
далекозорість



серцева  
недостатність  
II-Б-III стадії при  
ішемічних  
хворобах серця



2022  
рік



гіпертонічна  
хвороба  
III стадії



артрози та інші  
ураження суглобів,  
хвороби м'яких  
тканин, остеопатії  
і хондропатії



хвороби  
щитоподібної залози  
та порушення інших  
ендокринних залоз,  
усі типи цукрового  
діабету



серцева  
недостатність  
II-Б-III стадії  
при ішемічних  
хворобах серця



хвороби хребта

## STATISTICAL INFORMATION ON THE ACTIVITIES OF MILITARY MEDICAL COMMISSIONS (MMC<sub>s</sub>) OF REGIONAL TERRITORIAL CENTRES FOR RECRUITMENT AND SOCIAL SUPPORT (RTC<sub>SSS</sub>)



*The analysis of the statistical information clearly shows an annual change in one article of the Schedule of Diseases<sup>38</sup> from the identified Top 5. In particular, in 2022, spinal diseases (Article 64a) replaced myopia or hyperopia (Article 30a), and in 2023, HIV-related diseases (Article 5a) replaced spinal diseases.*

*It is also worth noting that in 2022 and 2023, the list of the five most used articles of the Schedule of Diseases includes thyroid diseases (Article 13a), stage III hypertension (Article 39a) and stage II-B-III heart failure in coronary heart disease (Article 40a), the diagnosis and confirmation of which is complex and requires a significant amount of laboratory and instrumental research. Particular attention should be paid to the fact that these diseases do not have a pronounced external manifestation, which makes it possible to use such diagnoses for corrupt practices.*

*This information can be useful for working groups set up by the Ministry of Defence of Ukraine to review the decisions of Military Medical Commission (MMC) and law enforcement agencies.*

38 <https://zakon.rada.gov.ua/laws/show/z1109-08#Text>

# NATIONAL AGENCY ON CORRUPTION PREVENTION (NACP) RECOMMENDATIONS ON MINIMISING CORRUPTION RISKS

## RECOMMENDATIONS FOR IMPLEMENTATION IN THE MEDIUM TERM (1 YEAR):

### 1. The Cabinet of Ministers of Ukraine:

- ✔ to cancel the Resolution of the Cabinet of Ministers of Ukraine of 07.09.1993 No. 708 "On the Procedure for Organising and Conducting Military Medical Examination";
- ✔ to consider and approve a standard procedure for organising and conducting military medical examinations.

### 2. The Ministry of Defence of Ukraine:

- ✔ to develop, together with stakeholders, and initiate consideration by the Cabinet of Ministers of Ukraine of a standard procedure for organising and conducting military medical examinations;
- ✔ to cancel the Regulation on military medical examination in the Armed Forces of Ukraine, approved by the order of the Ministry of Defence of Ukraine of 14.08.2008 №402;
- ✔ to adopt the Regulation on Military Medical Examination in the Armed Forces of Ukraine on the basis of the standard procedure;

## RECOMMENDATIONS FOR IMPLEMENTATION IN THE SHORT TERM (6 MONTHS):

### 1. To the Ministry of Defence of Ukraine to amend Order No. 402 and provide:

- ✔ the procedure for forming the composition of regular and non-staff Military Medical Commissions (MMCs), including the procedure for appointing the chairpersons of non-staff Military Medical Commissions (MMCs) and heads of regular Military Medical Commissions (MMCs);
- ✔ the procedure for establishing Military Medical Commission (MMC) of Territorial Centres for Recruitment and Social Support (RTCRSSs);
- ✔ a unified approach to determining the members of Military Medical Commissions (MMCs) and qualification requirements for them;
- ✔ terms of military medical examination;
- ✔ the procedure for referring persons for instrumental and laboratory tests;
- ✔ the procedure for making a decision on granting a person a deferment from conscription for health reasons and determining the categories of conditions in which such a deferment is necessary;
- ✔ the procedure for referring a person for a repeat (control) medical examination

## STATISTICAL INFORMATION ON THE ACTIVITIES OF MILITARY MEDICAL COMMISSION (MMC) OF TERRITORIAL CENTRES FOR RECRUITMENT AND SOCIAL SUPPORT (RTCRSSS)

based on the results of complaints considered by regular Military Medical Commissions (MMCs) against resolutions of lower-level Military Medical Commissions (MMCs);

- ✔ the obligation to take into account the totality of diseases when making decisions on the fitness/unfit/restricted fitness of persons for military service;
- ✔ the procedure for medical examination of persons who were mobilised into the Armed Forces of Ukraine at the beginning of the full-scale invasion of the Russian Federation without undergoing a military medical examination;
- ✔ the procedure for determining the military specialities to which a person who has been previously recognised as partially fit for military service may be assigned;
- ✔ to establish a unified procedure for drawing up a certificate of the circumstances of an injury (wound, contusion, mutilation) and to initiate amendments to the Law of Ukraine "On the Internal Service of the Armed Forces of Ukraine" to unify the provisions of Order No. 402, the said Law and the Instruction on Investigation and Recording of Accidents with Servicemen, Occupational Diseases and Accidents in the Armed Forces of Ukraine, approved by the Order of the Ministry of Defence of Ukraine No. 332 of 27 October 2021;
- ✔ the procedure and grounds for pre-trial appeal against the decisions of Military Medical Commission (MMC).

### **2. The Ministry of Defence of Ukraine, the Ministry of Health of Ukraine and, if necessary, other interested central government agencies:**

- ✔ Develop a unified procedure for remuneration of civilian doctors engaged as members of Military Medical Commissions (MMCs);
- ✔ revise the Schedule of Diseases to bring it in line with the International Classification of Diseases 10<sup>39</sup>;
- ✔ to introduce criteria and conditions for determining a healthcare facility of municipal or state ownership, which can create Military Medical Commissions (MMCs) of Territorial Centres for Recruitment and Social Support (RTCRSSs) and Military Medical Commissions (MMCs) of other healthcare facilities of municipal or state ownership;
- ✔ to hold training events for civilian doctors - members and chairmen of Military Medical Commissions (MMCs) - on the procedure for conducting military medical examinations.

STATISTICAL INFORMATION  
ON THE ACTIVITIES OF THE VLC OTC

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**3. The Ministry of Defence of Ukraine, the Ministry of Health of Ukraine and the Ministry of Digital Transformation of Ukraine:**

- ✔ introduce electronic queues at all drug stores;
- ✔ Ensure access to the electronic healthcare system (EHS) for Military Medical Commission (MMC) members of all levels;
- ✔ to introduce special mechanisms to control unauthorised or unpredictable interference with accounts, in particular, to introduce a "workplace module of Military Medical Commissions (MMCs) member" that defines the powers of Military Medical Commissions (MMCs) member, his/her rights of access to information, full recording of actions on reviewing information and making decisions<sup>40</sup>;
- ✔ introduce electronic document management in Military Medical Commissions (MMCs) processes.

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40 <https://nazk.gov.ua/wp-content/uploads/2022/08/Karty-MSEK.pdf>

# CONCLUSION

For the second year in a row, Ukraine has been resisting the aggressor in the face of a full-scale invasion, and, accordingly, the general mobilisation of men under the legal regime of martial law continues.

At the same time, the mobilisation process is impossible without medical examinations by Military Medical Commissions (MMCs), as the combat capability of the Armed Forces of Ukraine depends on it. At the same time, due to active hostilities, a large number of servicemen need treatment, including abroad, which is also confirmed by the decisions of the Military Medical Commission (MMC) issued as a result of the relevant medical examinations.

However, due to the imperfect legal regulation of the activities of Military Medical Commissions (MMCs), the lack of an effective mechanism for appealing against Military Medical Commission (MMC) decisions and the slowdown in the digitalisation of Military Medical Commissions (MMCs), persons liable for military service and servicemen have to face numerous instances of corruption due to the abuse of discretionary powers by Military Medical Commission (MMC) officials.

In addition, the results of the study of the problem revealed shortcomings in the procedure for conducting military medical examination (MME) due to the imperfection of the current legislation, since Order No. 402 does not take into account the existing social challenges and needs of the military.

A common problem is the conduct of formal medical examinations, as a result of which persons liable for military service who actually have health problems are often unable to obtain a conclusion on their unfitness for military service due to the demand for illegal benefits. At the same time, persons who do not have any medical indications for this directly or indirectly enter into corrupt relations with members of Military Medical Commissions (MMCs) in order to evade military service.

In particular, the Human Rights Centre "Principle" NGO in its study on the system of determining fitness for military service points out that although the first section of Order No. 402 states that the Schedule of Diseases is developed in accordance with the requirements of the International Statistical Classification of Diseases and Related Health Problems, 10th Revision (ICD-10), in fact, the items of the Schedule of Diseases cannot be identified and compared unambiguously and fully<sup>41</sup>.

In addition, a necessary component of ensuring an objective assessment of the health status of persons liable for military service and an individual approach is to take into account the totality and interconnection of diseases when determining fitness for military service in order to prevent irreversible deterioration of the health status of persons during service and combat missions.

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41 <https://pryncyp.com/publications/%D0%B4%D0%BE%D1%81%D0%BB%D1%96%D0%B4%D0%B6%D0%B5%D0%BD%D0%BD%D1%8F-%D1%89%D0%BE%D0%B4%D0%BE-%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC%D0%B8-%D0%B2%D0%B8%D0%B7%D0%BD%D0%B0%D1%87%D0%B5%D0%BD%D0%BD%D1%8F-%D0%BF%D1%80%D0%B8%D0%B4%D0%B0%D1%82%D0%BD%D0%BE%D1%81%D1%82%D1%96-%D0%B4%D0%BE-%D1%81%D0%BB%D1%83%D0%B6%D0%B1%D0%B8>

## CONCLUSION

Another corruption risk factor that contributes to the development of corruption risks in Military Medical Commissions (MMCs) is the slow process of integrating the electronic healthcare system (EHMS), the Unified Register of Conscripts, Persons Liable for Military Service and Reservists with the military medical examination system due to the poor material and technical support of Military Medical Commissions (MMCs).

In accordance with Order No. 402, persons liable for military service have the possibility of both pre-trial and judicial appeal against the decisions of Military Medical Commissions (MMCs). At the same time, only the decisions of regular Military Medical Commissions (MMCs) can be appealed in court, which means that in order to appeal the decision of a non-staff permanent Military Medical Commission (MMC), a person liable for military service should still file a complaint with a regular Military Medical Commission (MMC) as part of the pre-trial appeal procedure.

At the same time, within the framework of the administrative process, the court is not entitled to assess the professional actions of specific doctors - members of Military Medical Commissions (MMCs) when they apply the appropriate methods of examination of the plaintiff, examine medical documentation, determine diagnoses and their compliance with a specific article of the Schedule of Diseases, as this requires special knowledge in the medical field.

Therefore, the absence of an effective, clear, transparent procedure for pre-trial appeal of decisions of non-staff Military Medical Commissions (MMCs) may cause both an excessive burden on the courts due to an increase in the number of cases concerning the unlawfulness of decisions of non-staff Military Medical Commissions (MMCs) and inefficiency of such judicial review in general.

Priority should be given to changing approaches to VLT and reforming Military Medical Commissions (MMCs) and Medical and Social Expert Commission (MSEC), aimed at building a holistic human-centred system and developing the state veteran policy. Given the importance of minimising the identified corruption risks and the urgent social need to improve the activities of Central Military Medical Commission (CMMC), it should be noted that mechanisms and ways to improve the activities of Central Military Medical Commission (CMMC) should be a joint achievement of the relevant public authorities, expert and veteran NGOs.

Currently, the implementation of the recommendations proposed by the National Agency will increase the transparency of the formation of Military Medical Commissions (MMCs) and the appointment of its members, regulate the procedure for passing military medical examination (MME), improve the efficiency of medical examinations, protect the rights of persons liable for military service and military personnel, and generally have a positive impact on the quality of manning the Armed Forces of Ukraine.





НАЦІОНАЛЬНЕ АГЕНТСТВО  
З ПИТАНЬ ЗАПОБІГАННЯ  
КОРУПЦІЇ

STRATEGIC  
ANALYSIS OF  
CORRUPTION  
RISKS

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