

# Ukraine

*Exit rules, exemptions from  
military service/mobilisation  
during martial law,  
documentation, punishment of  
evaders and deserters from  
military service*



Ministry of Immigration  
and Integration

The Danish  
Immigration Service

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/brief report at hand does not include any policy recommendations. The information does not necessarily reflect the opinion of the Danish Immigration Service.

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.

The report is a synthesis of information gathered from different sources, and it brings together condensed information in a relevant manner for the reader's COI needs and it organises information together thematically to form a coherent whole of the topic in question, instead of listing or quoting information source by source.

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## Executive summary

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On 24 February 2022, as a result of the full-scale Russian invasion, Ukrainian President Volodymyr Zelenskyy declared martial law and general mobilisation. Consequently, almost all men aged 18 to 60 were prohibited from leaving Ukraine. Certain categories of men aged 18 to 60 were exempted from the travel ban. The rules for crossing the state border by Ukrainian citizens are regulated by Resolution No. 57 of the Cabinet of Ministers. Since 24 February 2022, the resolution has been amended more than 15 times. The resolution sets 13 rules regarding eligibility for crossing the state border of Ukraine during martial law.

The rules allow persons wounded during combat; designated drivers for humanitarian, medical, or military aid; athletes; people working in the spheres of the railway-, sea- or aviation sector to cross the border of Ukraine. It also includes people not covered by the mobilisation decree, which are persons who have been removed from the military registry due to unfitness for military service, disabilities or support of persons with disabilities or serious diseases, persons with three or more children, etc.

The rules also set specific requirements for documentation within each category of exemption to the travel ban, such as military ticket with a stamp of removal from the military registry, medical conclusions, social- or pensions documents, etc.

In the first period after the introduction of the travel ban, the regulations were arbitrarily implemented by the State Border Guard Service (SBGS) at the borders and different procedures were enforced at the border crossing points (BCPs). Between April and June 2022, the situation at the border normalised as the border procedures became more standardised and uniform. Nevertheless, irregular procedures still occurred and the SBGS implemented internal procedures beyond the legislation. On one hand, the quality of the legal regulations contributes to inconsistency at the border. On the other hand, it gives public authorities leeway to interpret the law at their discretion, allowing for corruption schemes.

There have been cases of corruption within the SBGS. However, corruption related to border crossing seemed to be more prevalent in other sectors, including the regional military administrations, the Ministry of Infrastructure, charity organisations, non-governmental organisations (NGOs), local governments, and medical institutions.

The travel ban has provoked a demand for forged or corruptly obtained documents amongst men aged 18 to 60 to circumvent the travel ban. Commonly issued forged documents include, among others, falsified birth certificates, certificates of disability status and certificates of unfitness for military service. Moreover, significant shortcomings in the systems have created loopholes for men aged 18 to 60 to circumvent the travel ban at the BCPs, beyond the BCPs and through means of organised human smuggling.

The act of crossing the border out of Ukraine illegally may constitute either an administrative or a criminal offence. Illegal border crossing with forged documents, with the attempt of bribery or organised human smuggling, is punishable with prescription of a fine or imprisonment. Evasion from military service is punishable by imprisonment for a term of three to five years, whilst desertion prescribes imprisonment for a term of five to 12 years. On 27 January 2023, an amendment to the law came into effect, which introduced harsher punishments for military servicemen during martial law for violations committed from this date.

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## Introduction and methodology

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Following the full-scale Russian invasion of Ukraine on 24 February 2022, a travel ban was introduced; prohibiting men aged 18 to 60 to exit Ukraine. The travel ban has provoked a demand for forged or corruptly obtained documents to exit Ukraine. Moreover, significant shortcomings in the exit regulation systems have created loopholes for men to circumvent the travel ban at the border crossing points (BCPs), beyond the BCPs and through means of organised human smuggling.

This report at hand is a product of a Danish Immigration Service (DIS) mission to Poland, Slovakia and Ukraine from 27 February to 3 March 2023. The purpose of the mission was to collect updated information on the implementation of exit regulations for persons liable for military service in Ukraine.

The report covers exit rules for persons liable for military service in Ukraine, such as documentation and the procedures for implementing the travel regulations, including ways of circumventing the travel ban and prevalence of corruption. The final part of the report covers the punishment prescribed for illegal border crossing as well as desertion and draft evasion.

DIS in consultation with the Danish Refugee Appeals Board and the Danish National ID Centre drew up the Terms of Reference (ToR) for the report. An advisory group on Country of Origin Information (Referencegruppen) provided input to relevant sources to be consulted for the report. The ToR is included as an annex at the end of the report (Annex 7).

The compilation of the report is based primarily on oral sources supplemented by written sources, such as publicly available reports and news articles. Moreover, since most relevant legislation referred to in the report is in Ukrainian language, DIS made use of an authorised translator facilitated by the Danish Embassy in Ukraine. This also applies to relevant parts of a report from the Ukrainian National Agency for Corruption Prevention from October 2022, which contains information about corruption schemes and other illegal ways to circumvent the travel ban for (mostly) male citizens aged 18 – 60.<sup>1</sup>

The report is written in accordance with the European Union Agency for Asylum (EUAA) report methodology.<sup>2</sup> The report is a synthesis of information obtained from oral and written sources. Nine sources were interviewed in the process of compiling this report, of which two responded to DIS in writing. The sources consist of non-governmental organisations (NGOs), international organisations, and national government agencies. The sources interviewed were selected by virtue of their expertise, merit and experience relevant to the ToR. Some interviews were conducted in English and other interviews were translated from Ukrainian to English. Multiple sources were chosen to ensure precise and balanced data. During the interviews, interlocutors addressed topics beyond the scope of the ToR, and hence, not all details and nuances of the sources are presented in the report if they are not relevant to refugee status determination. However, all statements are included in the meeting notes in Annex 1. DIS has paid attention to presenting the views of the sources as accurately and transparently as possible.

Prior to the interviews, all interlocutors were thoroughly informed about the purpose of the interview and that their statements would be included in a publicly available report. All interlocutors were offered the

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<sup>1</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2

<sup>2</sup> EUAA, *Country of Origin Information (COI) Report Methodology*, February 2023, [url](#)

opportunity to decide how they wished to be cited in the report. Two sources have been anonymised based on their request. DIS drafted meeting minutes from each meeting, which were forwarded to the sources for approval, providing them with the opportunity to amend, comment and correct the content to ensure correctly cited information. For the sake of reader-friendliness, transparency and accuracy, paragraphs in the meeting notes have been numbered in consecutive order, used in the report when referring to the statements of the sources in the footnotes.

Attention should be paid to the changeable situation in Ukraine and the fact that information in this report may quickly become outdated. Therefore, the issues addressed in this report should be monitored periodically and brought up to date accordingly.

This report has been peer-reviewed internally within DIS. The research and editing of the report was finalised on 12 June 2023.

The report can be accessed from the website of DIS, [www.us.dk](http://www.us.dk), and is available to all stakeholders working within the field of refugee status determination as well as to the public.



## Abbreviations

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BCP	Border Crossing Point
CAOU	Code of Administrative Offenses of Ukraine
CCU	Criminal Code of Ukraine
COI	Country of Origin Information
DIS	Danish Immigration Service
DDS	Disability Determination Service
EUAA	European Union Agency for Asylum
EWB	Europe without Barriers
IDP	Internally Displaced Persons
MMC	Military Medical Commission
NACP	National Agency for the Corruption Prevention
NGO	Non-governmental organisation
OHCHR	Office of the United Nations High Commissioner for Human Rights
SBGS	State Border Guard Service
SSC	Social Support Centre
R2P	Right to Protection
TRC	Territorial Recruitment Centre
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crimes

## Glossary

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<b>Diia</b>	Diia [Дія] meaning The State and I [Держава і Я] is a digital application database between the Ukrainian authorities and the citizens. It is an online platform that contains personal information and documents, such as passports, identity cards, driving licences, tax-number, IDP-certificates and COVID-vaccinations, etc. <sup>3</sup>
<b>The Medical Commission</b>	The Medical Commission determines the disability group category, but the commission does not determine eligibility for serving in the army. <sup>4</sup>
<b>The Military Medical Commission</b>	The Military Medical Commission undertakes medical examinations and decides the fitness for military service. The commission examines medical certificates from other medical institutions besides the disability group status issued by the Medical Commission. <sup>5</sup>
<b>Shliakh [Шлях]</b>	Shliakh, meaning “the path” is an integrated database, administered by the Ministry of Infrastructure and the State Service of Transport Safety (UkrTransBezpeka). Government bodies and authorised organisations can enter the information of designated drivers into the database who after the approval of the State Border Guard Service are allowed to cross the border. <sup>6</sup>
<b>Verkhovna Rada</b>	Translated “Supreme Council.” Verkhovna Rada is the Ukrainian parliament, which consists of 450 deputies.

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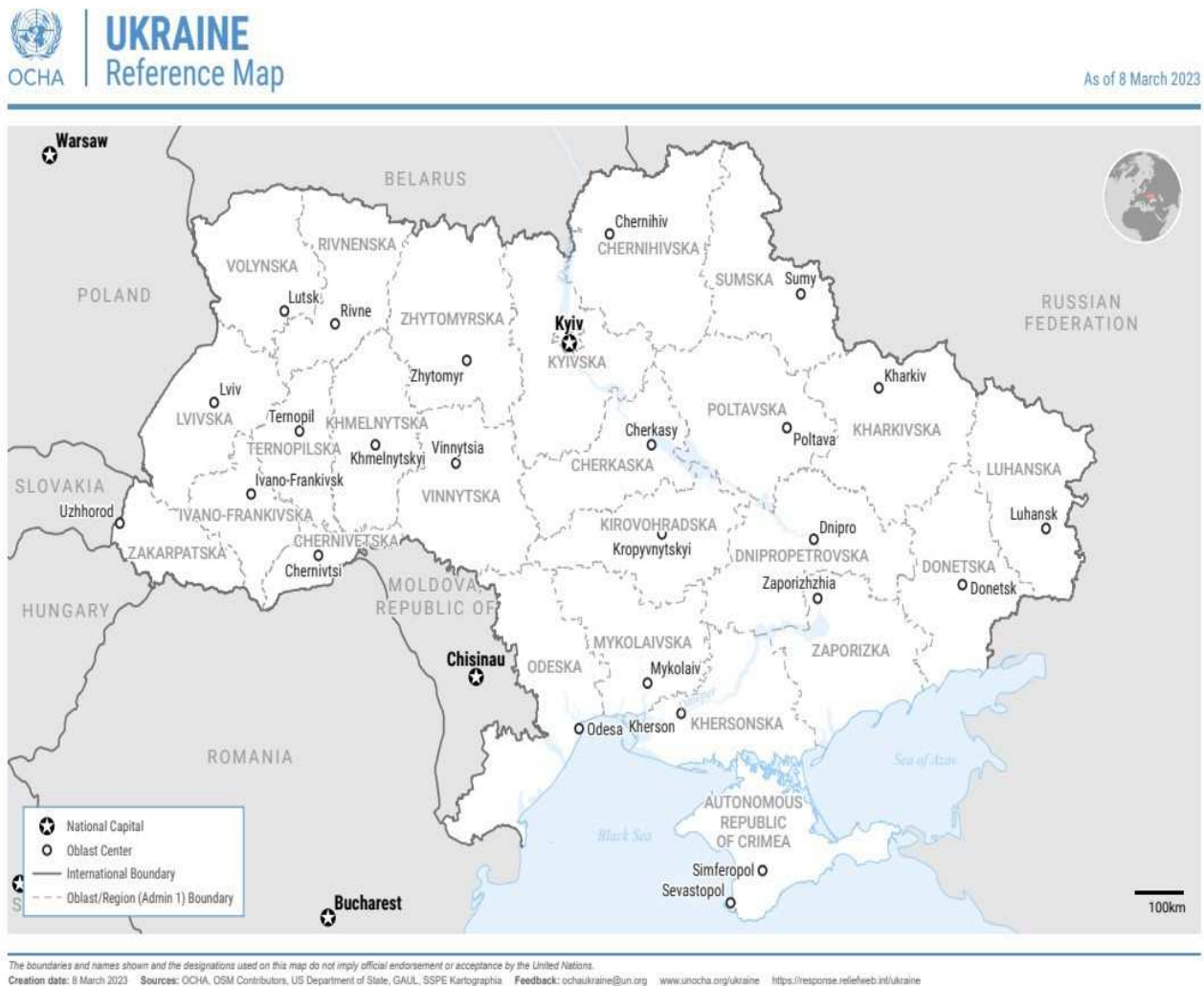
<sup>3</sup> R2P: 16; Non-Ukrainian Organisation working in Ukraine: 21

<sup>4</sup> NEEKA: 8

<sup>5</sup> NEEKA: 8

<sup>6</sup> Non-Ukrainian Organisation working in Ukraine: 18; R2P: 16; NACP: 8

## Map of Ukraine



Source: OCHA, *Ukraine: Reference Map (As of 8 March 2023)*, 8 March 2023, [url](https://response.reliefweb.int/ukraine)

# 1. Legislation

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## 1.1. Legislation regarding the declaration of martial law

In the early morning of 24 February 2022, Russian armed forces crossed several border crossings to Ukraine, initiating a full-scale invasion of Ukraine. Russian forces entered Ukraine from the north of the capital Kyiv, using Belarus as an entry place, stretching to the south of Ukraine to Kherson covering a front line of more than 1,000 km. The Russian president, Vladimir Putin, refrained from making an official declaration of war, instead designating the invasion as a Special Military Operation.<sup>7</sup>

On the same day of the invasion, at 05:30 in the morning, Ukrainian president Volodymyr Zelenskyy declared, in accordance with the Constitution of Ukraine<sup>8</sup>, both martial law<sup>9</sup> covering the whole of Ukraine and a general mobilisation in all regions of Ukraine and the city of Kyiv.<sup>10</sup>

According to the law “*On the Legal Regime of Martial Law*”<sup>11</sup>, martial law is a special regime that can be introduced in the whole of Ukraine or in parts of the country in the event of armed aggression or threat of attack, danger to the state independence or its territorial integrity. The law provides for the provision of appropriate state authorities, military command, military administrations and local self-government bodies powers to counter the threat or attack. Furthermore, pursuant to the law, temporary restrictions of constitutional rights and freedoms can be imposed, such as a special entry and exit regime and limitations on the freedom of movement.<sup>12</sup> The decree of the president is valid for 30 days; it can be extended with new decrees and has to be approved by the Ukrainian Parliament, the Verkhovna Rada.<sup>13</sup>

## 1.2. Legislation regarding exit rules during martial law

The rules regarding the exit of citizens from Ukraine during martial law were unclear and characterised by many exceptions and multiple interpretations.<sup>14</sup>

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<sup>7</sup> ISW, *Russia-Ukraine Warning Update: Initial Russian Offensive Campaign Assessment*, 24 February 2022, [url](#); USDOS, *2022 Country Report on Human Rights Practices: Ukraine*, 20 March 2023, [url](#)

<sup>8</sup> Ukraine, *Constitution of Ukraine, Article 85, paragraph 31 & article 106, paragraph 20*, latest amended September 2019, [url](#)

<sup>9</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>10</sup> Non-Ukrainian Organisation working in Ukraine: 1; NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

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

<sup>12</sup> Verkhovna Rada of Ukraine, *Закон України про правовий режим воєнного стану* [Law of Ukraine on the Legal Regime of Martial Law], 11 June 2015, Article 1; 15.6, [url](#)

<sup>13</sup> Non-Ukrainian Organisation working in Ukraine: 2-3; Verkhovna Rada of Ukraine, *Закон України про правовий режим воєнного стану* [Law of Ukraine on the Legal Regime of Martial Law], 11 June 2015, Article 5, [url](#); NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

<sup>14</sup> R2P: 3-4; NEEKA: 4-7; International Organisation based in Ukraine: 1; 20-21; UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4; OHCHR, *Situation of human rights in Ukraine in the context of the armed attack by the Russian Federation: 24 February – 15 May 2022*, 30 June 2022, [url](#), p. 41-42; NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

On an overall level, the “Law of Ukraine on the Procedure for Exiting/Entering the Territory of Ukraine by Ukrainian Citizens<sup>15</sup>” regulates the departure of citizens of Ukraine. According to Article 3 of this law, the rules for crossing the state border of Ukraine by citizens of Ukraine are established by the Cabinet of Ministers of Ukraine.<sup>16</sup>

The procedure for crossing the state border by citizens of Ukraine is regulated by Resolution 57, “On the Approval of the Rules for Crossing the State Border by Citizens of Ukraine<sup>17</sup>.” The resolution dates from 1994 and since 24 February 2022, it has been amended more than 15 times.

### 1.2.1. Categories of people allowed to cross the border<sup>18</sup>

Resolution no. 57, Article 2, subparagraphs 1 – 13 specify the rules regarding border crossing and leaving the country for a Ukrainian citizen during martial law.<sup>19</sup> According to the subparagraphs, the individuals allowed to leave Ukraine during martial law are:

#### Article 2.1 – Disability<sup>20</sup>

- Persons with a disability;
- Spouses to persons with a disability;
- Persons providing permanent care for persons with disabilities of group I or II;
- Parents, guardians, custodians, adoptive or foster parents who have responsibility for a child under the age of 18 with a disability;
- Parents dependent on an adult child who is a person with a disability of group I or II;
- Grandmothers, grandfathers, adult siblings, stepmothers and stepfathers accompanying a child with a disability if they do not belong to the category of persons subject to conscription of military service during mobilisation;
- Family members of first-degree kinship or another person accompanying persons in need of constant care;

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<sup>15</sup> Ukraine, Закон України Про порядок виїзду з України і в'їзду в Україну громадян України [Law of Ukraine On the procedure for leaving Ukraine and entering Ukraine for citizens of Ukraine], 1994, latest amendment 30 November 2021, [url](#)

<sup>16</sup> Ukraine, Закон України Про порядок виїзду з України і в'їзду в Україну громадян України [Law of Ukraine On the procedure for leaving Ukraine and entering Ukraine for citizens of Ukraine], 1994, latest amendment 30 November 2021, article 3, [url](#)

<sup>17</sup> Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine], Resolution no. 57, 27 January 1994, latest amendment 18 April 2022, [url](#)

<sup>18</sup> Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine], Resolution no. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 1-13, [url](#)

<sup>19</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine], Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraphs 1-13, [url](#)

<sup>20</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine], Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 1, [url](#)

- Guardians of persons with a disability, recognised by the court as incapable or if a guardian has not been appointed, a family member of the first or second degree of consanguinity;
- Persons with disabilities or other persons in need of constant care living in care facilities can be accompanied by the institution's employees with the authorisation of the director (or the deputy) of the institution:
  - Male citizens aged 18 to 60 can cross the border during martial law without persons or children with disabilities or in need of constant care if the purpose is to stay with a person or child in the above-mentioned categories. The male citizen must return to Ukraine no later than the return of the person whom they accompanied.

**Article 2.2 – Persons accompanying children with diseases<sup>21</sup>**

- Children suffering from the following diseases can be accompanied by the mother and/or a parent; a guardian; a custodian; one or both adoptive parents; foster parents who provide such support:
  - Severe perinatal damage to the nervous system;
  - Severe congenital malformations;
  - Rare orphan diseases;
  - Oncological, oncohematological diseases;
  - Cerebral palsy;
  - Severe mental disorders;
  - Type I diabetes (insulin-dependent);
  - Acute or chronic kidney diseases of the IV degree;
  - A child who received a severe injury; needs an organ transplant or needs palliative care.

**Article 2.3 – Persons accompanying orphans or children without parental care or in foster care<sup>22</sup>**

- Orphans and/or children below 18 years deprived of parental care who reside/are enrolled in orphanages or other institutions for child rearing or similar;
- Children who are not orphans or deprived of parental care, but who are enrolled in institutions of child rearing or similar or foster care.

**Article 2.4<sup>23</sup>**

The Cabinet of Ministers deleted this article on 12 March 2022.<sup>24</sup>

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<sup>21</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України* [On the approval of the Rules for crossing the state border by citizens of Ukraine], Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 2, [url](#)

<sup>22</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України* [On the approval of the Rules for crossing the state border by citizens of Ukraine], Resolution no. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 3, [url](#)

<sup>23</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України* [On the approval of the Rules for crossing the state border by citizens of Ukraine], Resolution no. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 4, [url](#)

<sup>24</sup> The paragraph included rules for orphans or children deprived of parental care. The rules were simplified and included in Article 2, paragraphs 1, 2 and 3

**Article 2.5 – Persons accompanying people or children with disabilities<sup>25</sup>**

- (No more than two) individuals accompanying a person with disabilities of Group I or children with disabilities.

**Article 2.6 – Persons not subjected to call-up for military service<sup>26</sup>**

- Persons liable for military service, but who are not subject to a call-up for military service during mobilisation. This provision does not apply to persons specified in Article 23.2–23.8 of the “*Law of Ukraine on Mobilisation Preparation and Mobilisation.*”

**Article 2.7 – Injured persons from the Defense and Security Forces of Ukraine<sup>27</sup>**

- Persons injured during the fighting against the Russian aggression for treatment abroad;
- One family member to a person from the Defence and Security Forces of Ukraine injured during the fighting against the Russian aggression.

**Article 2.8 – Drivers I<sup>28</sup>**

- Persons designated as drivers of cargo of medical aid, humanitarian aid, cargo or vehicles for the Armed Forces or other military formations for a period of maximum 30 calendar days.

**Article 2.9 – Drivers II<sup>29</sup>**

- Drivers of vehicles of business entities with a license to carry out economic activities in the international transport of goods and passengers for a period of maximum 60 calendar days:
  - One driver for cargo vehicles;
  - Two drivers for passenger vehicles.

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<sup>25</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 5, [url](#)

<sup>26</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 6, [url](#)

<sup>27</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 7, [url](#)

<sup>28</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 8, [url](#)

<sup>29</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 9, [url](#)



**Article 2.10 – Persons working with railway transport<sup>30</sup>**

- Employees of enterprises of railway transport;
- Employees of JSC “Ukrainian Railways”.

**Article 2.11 – Athletes<sup>31</sup>**

- Athletes of the national teams of Ukraine (in Olympic and non-Olympic sports and sports of persons with disabilities) and coaches, sports referees and specialists;
- Athletes and coaches included in the teams of sports clubs of the highest divisions in game sports, as well as persons who provide for organisational, scientific and methodological medical support and sports referees.

**Article 2.12 – Ships’ crew<sup>32</sup>**

- Male citizens aged 18-60 years, working on seagoing vessels or inland navigation vessels as part of crew or training.

**Article 2.13 – Aviation personnel<sup>33</sup>**

- Male citizens aged 18-60 years, working as aviation personnel, state inspectors for aviation supervision or persons authorised to conduct inspections of the State Aviation Service;
- Employees of the State Aviation Enterprise “Ukraine” for work or simulator training abroad.

### 1.2.2. Legal uncertainties

As noted above, several sources highlighted that the legislation was unclear and open to many different interpretations. This part will cover the ambiguities in the legislation, while [section 3.2](#) will cover inconsistencies regarding the practical situation at the Ukrainian Border Crossing Points (BCPs).

While the president’s decree on martial law and mobilisation did not refer to a travel ban, the head of the Ukrainian State Border Guard Service (SBGS) announced the travel ban on the same day of the introduction of the martial law.<sup>34</sup> According to a report from the Ukrainian National Agency on Corruption Prevention (NACP), the head of the SBGS at 08:38 pm on 24 February 2022 sent a letter to all bodies of the SBGS

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<sup>30</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 10, [url](#)

<sup>31</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 11, [url](#)

<sup>32</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 12, [url](#)

<sup>33</sup> Verkhovna Rada of Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, subparagraph 13, [url](#)

<sup>34</sup> OHCHR, *Situation of human rights in Ukraine in the context of the armed attack by the Russian Federation: 24 February – 15 May 2022*, 30 June 2022, [url](#), p. 41-42



ordering the ban of departures of Ukrainian male citizens aged 18 to 60 years for the period of the martial law regime. In the letter, there was no reference to any legally defined grounds for the travel ban. Furthermore, the letter was the first official document that established the travel ban, including the specifications of the ban.<sup>35</sup>

At 11:33 pm on 24 February 2022, the official website of both the Cabinet of Ministers of Ukraine and the SBGS publicly announced the temporary restrictions on the departure from Ukraine for a certain category of citizens.<sup>36</sup>

OHCHR noted that neither the martial law nor the travel ban of the SBGS provided a clear justification for its application to the majority of the male citizens. Furthermore, the OHCHR received information that even men not covered by the general mobilisation decree were prevented from leaving the country.<sup>37</sup>

According to a thorough analysis conducted by the NACP, there were clear inconsistencies in the legislation related to the travel ban. There are 12 legal acts regulating Ukrainian citizens' rights to cross the state border. The primary legal act is the Constitution of Ukraine, which guarantees fundamental rights and freedoms, including the right to leave the territory of the state, except for restrictions clearly established by law. Martial law can impose some restrictions, but only on a temporary basis.<sup>38</sup>

In addition to the Constitution, the "*Law of Ukraine on the Procedure for Departure from Ukraine and Entry into Ukraine by Citizens of Ukraine*" regulates the rights of citizens to leave the country. According to Article 1, a citizen of Ukraine has the right to leave Ukraine, except in cases provided for by this Law. Article 6 describes the exceptional grounds for temporary restrictions such as knowledge of state secrets, ongoing criminal proceedings or conviction, evasion of obligations imposed by a court etc. Martial law or a general mobilisation does not appear in the law as legal grounds for a travel ban.<sup>39</sup>

Furthermore, neither the president's decree on the introduction of martial law<sup>40</sup> nor the decree on general mobilisation<sup>41</sup> referred to travel restrictions. The decree on martial law did only allow for restrictions as a future possibility.<sup>42</sup>

According to NACP, the SBGS' announcement of the introduction of the travel ban was a consequence of the president's decree on martial law. However, NACP noted that the SBGS is not a military command body

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<sup>35</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

<sup>36</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

<sup>37</sup> OHCHR, *Situation of human rights in Ukraine in the context of the armed attack by the Russian Federation: 24 February – 15 May 2022*, 30 June 2022, [url](#), p. 41-42

<sup>38</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

<sup>39</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

<sup>40</sup> Україна, 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>41</sup> Україна, Президент України [President of Ukraine], *Указ Президента України №69/2022 Про загальну мобілізацію*, [Decree of the President of Ukraine No. 69/2022 On General Mobilisation], 24 February 2022, [url](#)

<sup>42</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

and is therefore not authorised to introduce such a restriction by virtue of Article 19 of the Ukrainian Constitution.<sup>43</sup>

Based on the above, NACP concluded that the restriction was in itself unlawful and would lead to negative socio-economic and legal consequences such as increased corruption risks and inequality before the law.<sup>44</sup>

According to OHCHR, the travel ban resulted in a differential treatment of the Ukrainian population, because it was only applicable to men. On 29 March and 1 April 2022, the Cabinet of Ministers extended the travel ban to all persons subject to mobilisation. [See section 1.4 for women covered by the travel ban.](#) The ban, however, was still affecting men disproportionately, since broader categories of men were subject to mobilisation than women.<sup>45</sup>

An International Organisation based in Ukraine noted that the martial law did not provide a clear justification for the travel ban applicable for the majority of the male population, making it difficult to determine whether such measures were necessary to maintain service in the army.<sup>46</sup>

Furthermore, there was an inconsistency between the aims and means of the travel ban. The travel ban applied to the majority of the male population, including those exempted from military service and mobilisation. The same was the case with students enrolled in foreign educational institutions who were allowed to cross the border until the end of the summer. Then, the SBGS suddenly changed the practice and prohibited students from travelling abroad.<sup>47</sup>

### 1.3. Legislation on military service, mobilisation and exemptions

Every Ukrainian citizen has an obligation to make an effort to defend the country in case of war or similar. Article 65 of the Ukrainian Constitution stipulates that the defence of the country, its independence and territorial integrity is the duty of every citizen of Ukraine.<sup>48</sup>

#### 1.3.1. Military service

“The Law of Ukraine on Military Duty and Military Service” regulates the general principles of the performance of military service.<sup>49</sup>

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<sup>43</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

<sup>44</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

<sup>45</sup> OHCHR, *Situation of human rights in Ukraine in the context of the armed attack by the Russian Federation: 24 February – 15 May 2022*, 30 June 2022, [url](#), p. 41-42

<sup>46</sup> International Organisation based in Ukraine: 20

<sup>47</sup> International Organisation based in Ukraine: 21

<sup>48</sup> A non-Ukrainian Organisation working in Ukraine: 5; Ukraine, *Constitution of Ukraine*, official translation, 28 June 1996, latest amendment December 2019, [url](#); Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, article 1.1, [url](#)

<sup>49</sup> Ukraine, *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](#); Ministry of Defence and State Border Guard Service: 1

In relation to military duty, the citizens of Ukraine are divided into the following categories:<sup>50</sup>

- Pre-conscripts – persons subject to registration at conscription stations;
- Conscripts – persons assigned to conscription stations;
- Military personnel - persons undergoing military service;
- (Reserve) Conscripts - persons who are in the reserve to equip 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;
- Reservists – persons who serve in the military reserve of the Armed Forces of Ukraine, and other military formations and are assigned to their staffing in peacetime and in a special period.

According to article 2 of the law, the following types of military service are established:<sup>51</sup>

- Active military service;
- Military service under the contract of private members;
- Military service under the contract of non-commissioned sergeants and non-commissioned petty officers;
- Military service under the contract of officers;
- Military service by conscription of officers;
- Military service (training) of cadets of higher military educational institutions, as well as higher educational institutions including military institutes, military training faculties, military training departments and military training offices;
- Military service by conscription during mobilisation for a special period;
- Military service by conscription of reservists in a special period.

When a person turns 17 in the year of enrolment, he is assigned to the local conscription centre for registration.<sup>52</sup> Thereafter, there will be a check on the suitability of the person to perform military service, including a medical examination. From the moment a person has been evaluated as ready to perform military service, they will be transferred to the reserves in case of mobilisation or similar.<sup>53</sup> Article 15 of the law states that males aged 18 to 27 years are eligible for conscription unless they are exempted or their military service has been postponed.<sup>54</sup> The length of service is up to 18 months, and 12 months for persons with a master's degree at the time of conscription for military service.<sup>55</sup>

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<sup>50</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 1.9, [url](#)

<sup>51</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 2.6, [url](#)

<sup>52</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 14.3, [url](#)

<sup>53</sup> UK Home Office, *Country Policy and Information Note, Ukraine: Military service*, June 2022, [url](#), p. 17-18; Ukraine, *Закон України Про військовий обов'язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 11, [url](#)

<sup>54</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 15.1, [url](#)

<sup>55</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 23.1, [url](#)

### 1.3.1.1 Deferment from conscription for military service

Article 17 in the “*Law on Military Duty and Military Service*” regulates the rules for the postponement of military service on a temporary basis. In general, postponement is granted to conscripts by the decision of the district conscription commission based on circumstances related to one’s family, health, or due to educational or professional activities.<sup>56</sup>

The legal reasons for postponement for reasons related to one’s family are:<sup>57</sup>

- Persons (conscripts) with disabled parent(s) or disabled persons under the guardianship, care or support of the conscript;
- Conscripts who support minor relatives (siblings) or other relatives without other adult guardians;
- Conscripts with a child under the age of three years;
- Conscripts with two or more children;
- Conscripts with a pregnant wife;
- Conscripts who are orphans or deprived of parental care;
- If several sons are subject to conscription at the same time, a postponement may be granted to one of them;
- If the economic situation of a family will worsen significantly, if the conscript is summoned.

Health-related reasons:<sup>58</sup>

- Conscripts recognised by a medical commission as temporary unfit for service can be deferred for a period of up to one year.

Educational reasons:<sup>59</sup>

- Conscripts who are studying in or outside Ukraine can obtain deferment for the entire period of studies.

Professional reasons:<sup>60</sup>

- Pedagogical workers;
- Medical workers;
- Clerics;
- Village, settlement or city heads for the period of their performance of these powers;
- Persons with the degree of doctor (philosophy, sciences, arts) who work within their speciality;

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<sup>56</sup> Ukraine, *Закон України Про військовий обов’язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 17.1, [url](#)

<sup>57</sup> Ukraine, *Закон України Про військовий обов’язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 17.2, [url](#)

<sup>58</sup> Ukraine, *Закон України Про військовий обов’язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 17.7, [url](#)

<sup>59</sup> Ukraine, *Закон України Про військовий обов’язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 17.8-17.9, [url](#)

<sup>60</sup> Ukraine, *Закон України Про військовий обов’язок і військову службу* [Law of Ukraine on Military Duty and Military Service], 1992, latest amendment 12 January 2023, article 17.13, [url](#)

- Members of the police, civil protection service, State Bureau of Investigation and employees of the Court Security Service for the entire period of their service.

Other reasons:<sup>61</sup>

- Conscripts who have been notified of a suspicion of committing a criminal offence until the relevant decision has been made.

#### 1.3.1.2. Exemption from conscription for military service

Article 18 of the “*Law on Military Duty and Military Service*” regulates the legal reasons for permanent exemption from conscription for military service.<sup>62</sup>

Persons exempted from military service are:

- Persons recognized as disabled or unfit for military service in peacetime due to their health;
- Persons who have reached the age of 27;
- Persons who fulfilled their duties in the military reserve during the terms of the first and second contracts;
- Persons whose parents or siblings died or became disabled during military service (The decision is voluntary of the conscript);
- Persons who raise a child with a disability under the age of 18;
- Persons who raise a child with serious diseases;<sup>63</sup>
- Persons who are supporting a sick spouse, child or parents in need of constant care;
- Persons with a spouse and/or parents or another individual with a disability of Group I or II for whom the person is responsible for;
- Persons who completed military service in another state before acquiring Ukrainian citizenship;
- Persons who were convicted of a criminal offence with deprivation of liberty, restriction of liberty, including exemption from serving the sentence;
- Persons who were awarded military (special) ranks of officers after graduation from institutions of higher education.

The law also states that during a period of martial law, conscription for military service is not carried out.<sup>64</sup>

#### 1.3.2. Mobilisation

The president of Ukraine signed the decree On General Mobilisation on 24 February 2022, declaring the mobilisation of persons liable for military service. According to the legislation, the president determines the type, scope and term of the mobilisation. The president can prolong the mobilisation if the situation

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<sup>61</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, article 17.14, [url](#)

<sup>62</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, article 18, [url](#)

<sup>63</sup> The reasons mentioned in the law are: severe perinatal damage to the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, diabetes mellitus type I (insulin-dependent), acute or chronic kidney diseases of the IV degree, a child who received a serious injury, needs an organ transplant, needs palliative care.

<sup>64</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, article 18, [url](#)

causing the mobilisation requires it to be. Furthermore, the Ukrainian Parliament has to approve the decree by formally putting it into law.<sup>65</sup>

The legal basis of mobilisation in Ukraine is the “*Law on Mobilisation Preparation and Mobilisation*”, which determines the principles of organisation, powers of state authorities, other state bodies and responsibilities of officials and duties of citizens in terms of implementation of mobilisation measures.<sup>66</sup>

The law defines the framework in case of partial or full mobilisation. Article 22 defines the citizens’ responsibilities, such as appearing on call to the territorial centre of recruitment, or being involved in defensive work if the person is part of the reserves, but not called up for service, etc.<sup>67</sup>

Article 23 establishes the range of persons not subject to conscription for military service during mobilisation.<sup>68</sup> The article distinguishes between two definitions of exemptions: Persons not subject to mobilisation and persons temporarily not subject to mobilisation.<sup>69</sup>

According to article 23, persons deferred from conscription during mobilisation are:<sup>70</sup>

- Persons reserved for work in public authorities, other state bodies, local self-government bodies, as well as enterprises, institutions and organisations defined by the Cabinet of Ministers;
- Persons with disabilities or temporary unfit for military service for health-related reasons for a period of up to six months;
- Women and men with three or more dependent children under the age of 18;
- Women and men raising a child (children) under the age of 18 on their own;
- Women and men, guardians, caregivers, and foster parents raising a child with a disability under the age of 18;
- Women and men, guardians, caregivers, foster parents, parents-educators raising a child with a serious disease;<sup>71</sup>
- Women and men dependent on an adult child with disabilities of group I or II;
- Adoptive parents, guardians, trustees, foster parents or parents-educators, whose dependents are orphans or children deprived of parental care under the age of 18;
- Persons and the person’s spouse engaged in constant care for a sick spouse, child or parents;
- Persons with a spouse; parents or spouse’s parents with a disability of group I or II;

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<sup>65</sup> A non-Ukrainian Organisation working in Ukraine: 4; Ukraine, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Preparation and Mobilisation]*, 1993, latest amendment 13 December 2022, Article 4, [url](#)

<sup>66</sup> Ukraine, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Preparation and Mobilisation]*, 1993, latest amendment 13 December 2022, Article 1-3, [url](#)

<sup>67</sup> Ukraine, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Preparation and Mobilisation]*, 1993, latest amendment 13 December 2022, Article 22, [url](#)

<sup>68</sup> A non-Ukrainian Organisation working in Ukraine: 6-7; Ukraine, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Preparation and Mobilisation]*, 1993, latest amendment 13 December 2022, Article 23, [url](#)

<sup>69</sup> A non-Ukrainian Organisation working in Ukraine: 6-7

<sup>70</sup> Verkhovna Rada of Ukraine, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Preparation and Mobilisation]*, 1993, latest amendment 13 December 2022, Article 23, [url](#)

<sup>71</sup> The reasons mentioned in the law are: severe perinatal damage to the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, diabetes mellitus type I (insulin-dependent), acute or chronic kidney diseases of the IV degree, a child who received a serious injury, needs an organ transplant, needs palliative care.



- Guardians or persons engaged in constant care in the absence of other persons for an individual with a disability of group I or II, recognised by a court as incapacitated or for a person who needs constant care;
- Women and men with a minor child and a spouse who performs military service;
- Deputies of the Verkhovna Rada<sup>72</sup> of Ukraine and of the Autonomous Republic of Crimea;
- Employees of military authorities (governing bodies), military units (subdivisions), enterprises, institutions and organizations of the Ministry of Defence of Ukraine, the Armed Forces of Ukraine, the State Service for Special Communications and Information Protection of Ukraine, the Security Service of Ukraine, the Foreign Intelligence Service of Ukraine, the National Guard of Ukraine, the State Border Guard Service of Ukraine, the National Police of Ukraine, the Bureau of Economic Security of Ukraine, the National Anti-Corruption Bureau of Ukraine, State Bureau of Investigations, State Executive Service of Ukraine and Department of State Protection of Ukraine.

Persons temporarily not subject to mobilisation are:<sup>73</sup>

- Applicants for professional (vocational), professional pre-higher and higher education, assistant trainees, graduate students and doctoral students studying full-time or dual forms of education;
- Scientific and scientific-pedagogical workers of institutions of higher and professional pre-higher education, scientific institutions and organisations that have an academic title and/or scientific degree, and pedagogical workers of vocational (technical) education institutions, general secondary education institutions;
- Women and men whose close relatives (husband, wife, son, daughter, father, mother, grandfather, grandmother or full brother or sister) died or went missing during the anti-terrorist operation;
- Women and men whose close relatives (husband, wife, son, daughter, father, mother, grandfather, grandmother or full brother or sister) died or went missing during the implementation of measures to ensure national security and defence, repulse and deter armed aggression of the Russian Federation in Donetsk and Luhansk regions, as well as during national security and defence, repulsion and deterrence of armed aggression against Ukraine during martial law.

## 1.4. Women and mobilisation to military service

Article 65 of the Constitution of Ukraine states that the duty to protect the country applies to all citizens.<sup>74</sup>

The “*Law of Ukraine on Military Duty and Military Service*” defines the duty in the same manner, imposing the duty on all citizens regardless of gender.<sup>75</sup>

Most women are generally not covered by conscription or mobilisation. However, some categories of women are obligated to register in the military registry, while others can register voluntarily. The obligation

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<sup>72</sup> Parliament

<sup>73</sup> Verkhovna Rada of Ukraine, *Закон України Про мобілізаційну підготовку та мобілізацію [Law of Ukraine on Mobilisation Preparation and Mobilisation]*, 1993, latest amendment 13 December 2022, Article 23, [url](#)

<sup>74</sup> Ukraine, *Constitution of Ukraine*, official translation, 28 June 1996, latest amendment December 2019, Article 65.1 [url](#)

<sup>75</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, article 1.1, [url](#)

depends on the profession and/or speciality of the woman. Furthermore, the woman in question must qualify as fit for military service and be within the age category between 18 to 60 years.<sup>76</sup>

On 30 December 2022, the Cabinet of Ministers adopted a new procedure for military registration of conscripts and reservists. The government provided for the military registration of female doctors and created the “Unified State Register of Conscripts.” Therefore, female doctors, nurses and pharmacists who graduated from medical universities or pharmaceutical institutions are subject to mandatory military registration.<sup>77</sup> Throughout 2022, this step was followed by a fierce discussion about the military registration of women. The new procedure clarified the categories of women subject to military registration.<sup>78</sup>

Medical and pharmaceutical educational institutions must submit lists of female students to the territorial recruitment and social support centres two months before the end of their studies. After the completion of training, female doctors, nurses and pharmacists receive a temporary conscript certificate and enter into the “Unified State Register of Conscripts and Reservists.” After receiving the certificate, a woman must present it at the military staffing centre within 7 days.<sup>79</sup>

Women who are on the military registration list may be conscripted into military service or work to ensure the defence during wartime. In peacetime, women can only be accepted for military service and service in the military reserve on a voluntary basis.<sup>80</sup> According to the Ukrainian NGO, *Europe Without Borders*, not a single woman has been forcibly mobilised into the army since 2014.<sup>81</sup>

The law on Military Duty and Military Service states that women perform military duty on an equal basis with men, except in cases of maternity and childhood protection. This includes voluntary acceptance (under contract) and conscription, passing military service, serving in the military reserve, performing military duty in the reserve and observing the rules of military accounting.<sup>82</sup>

On 11 October 2021, the Ministry of Defence issued Order No. 313, “*On the approval of the List of specialities and/or occupations related to relevant military occupational specialities after acquiring which women are registered for military service and the List of specialities and/or occupations related to relevant military occupational specialities.*”<sup>83</sup> The list categorises 14 specialities and professions. Women holding

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<sup>76</sup> UK Home Office, Country Policy and Information Note, *Ukraine: Military service*, June 2022, [url, p.22](#); Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, article 1.11, [url](#)

<sup>77</sup> EWB: 11-12; Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, article 1.11, [url](#)

<sup>78</sup> EWB: 12

<sup>79</sup> EWB: 13

<sup>80</sup> UK Home Office, *Country Policy and Information Note, Ukraine: Military service*, June 2022, [url, p. 22](#); Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, article 1.12, [url](#)

<sup>81</sup> EWB: 12

<sup>82</sup> Ukraine, *Закон України Про військовий обов'язок і військову службу [Law of Ukraine on Military Duty and Military Service]*, 1992, latest amendment 12 January 2023, article 1.12, [url](#)

<sup>83</sup> EWB: 16; Ukraine, Міністерство Оборони України, *Наказ № 313, Про затвердження Переліку спеціальностей та/або професій, споріднених з відповідними військово-обліковими спеціальностями, після одержання яких жінки беруться на військовий облік військовозобов'язаних та Переліку спеціальностей та/або професій, споріднених з відповідними військово-обліковими спеціальностями [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*



one of these professions or specialities can register on a voluntary basis for the military register. The categories are:<sup>84</sup>

- Chemistry, chemical technologies and engineering, biology;
- Telecommunications and radio engineering;
- Software engineering, computer science, information systems and technologies, computer engineering, system analysis, cyber security, micro- and nanosystem engineering, automation and computer-integrated technologies;
- Metrology and information-measuring technology;
- Earth sciences, geography, physics and astronomy;
- Food technology, the technology of production and processing of animal husbandry products;
- Provision of troops, weapons and military equipment, technologies of light industry;
- Physical therapy, occupational therapy, medical and psychological rehabilitation, public health, physical rehabilitation, industrial pharmacy, sanitation and expertise;
- Stomatology, medicine, nursing, pharmacy, technologies of medical diagnosis and treatment;
- Biomedical engineering, biotechnology and bioengineering;
- Veterinary medicine, veterinary hygiene;
- Accounting and taxation, marketing, management, entrepreneurship, economics, finance, banking and insurance;
- Publishing and printing;
- Psychology, social work, social welfare.

For a woman to be registered in the military register with the above-mentioned specialities and professions, the person in question has to present documentation of education and a workbook, confirming her experience, to the military commissariat.<sup>85</sup>

#### 1.4.1. Women covered by the travel ban

Initially, women were not covered by the travel ban issued by the SBGS on 24 February 2022. However, on 29 March and 1 April 2022, the Cabinet of Ministers extended the travel ban to cover all persons subject to mobilisation.<sup>86</sup>

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*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>84</sup> EWB: 16; Ukraine, Міністерство Оборони України, *Наказ № 313, Про затвердження Переліку спеціальностей та/або професій, споріднених з відповідними військово-обліковими спеціальностями, після одержання яких жінки беруться на військовий облік військовозобов'язаних та Переліку спеціальностей та/або професій, споріднених з відповідними військово-обліковими спеціальностями [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>85</sup> EWB: 18

<sup>86</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172; OHCHR, *Situation of human rights in Ukraine in the context of the armed attack by the Russian Federation: 24 February – 15 May 2022*, 30 June 2022, [url](#), p. 42

On 27 January 2023, the Cabinet of Ministers amended the border crossing rules following a discussion on government officials crossing the border for leisure purposes. The amendment listed a number of categories of officials, including women, who were covered by the new rules of departure.<sup>87</sup>

The categories are:<sup>88</sup>

- National deputies of Ukraine;
- Ministers and their deputies;
- Prosecutors;
- Deputies of local councils;
- Heads (and their deputies) of bodies and services established by the President of Ukraine;
- Heads of the Office (and their deputies) of the President of Ukraine, the staff of the Verkhovna Rada of Ukraine, the Security Service of Ukraine, the National Bank of Ukraine, the secretary of the National Security and Defence Council;
- Heads (and their deputies) of state unitary enterprises;
- Heads (and their deputies) of central authorities;
- Heads (and their deputies) of local administrations;
- Judges (including the Constitutional Court);
- State Secretaries of Ministries and Cabinet of Ministers of Ukraine;
- Heads (and their deputies) of other state bodies;
- Heads (and their deputies) and members of the Accounting Chamber, the Central Election Commission, the National Television Council, and other state collegial bodies;
- Management of companies in which more than 50 percent are directly or indirectly owned by the state;
- Heads of structural subdivisions of state bodies and local self-government bodies;
- Other employees booked for the period of mobilisation and wartime by the authorities.

The amendment included some exceptions to the travel ban of the above-mentioned categories. The exceptions are:<sup>89</sup>

- Officials (male and women) leaving for authorised business trips;
- Officials (male and women) who are single parents and have a child(ren) under the age of 18:
  - For visits outside Ukraine;
  - To accompany the children to travel outside Ukraine;
- Officials (male and women) who depart for treatment abroad (provided that an appropriate letter from the Minister of Health is presented at the border);
- Officials whose relatives of the first or second degree of consanguinity died abroad.

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<sup>87</sup> EWB: 1; Ukraine, President of Ukraine, *Officials will no longer be able to travel abroad for non-governmental purposes - President's address*, 23 January 2023, [url](#)

<sup>88</sup> EWB: 1

<sup>89</sup> EWB: 1

There are also specific exceptions for female officials who can visit their minor children abroad if they present the following documents:<sup>90</sup>

- Birth certificate of the minor child(ren);
- Certified copy of the certificate or birth certificate of minor children;
- Another document confirming that the woman has a minor child(ren);

There must also be a note in the register of the SBGS that the child(ren) crossed the state border. If such a note is not present, the woman must provide a certificate from the Ukrainian consulate in the child(ren)'s country of residence. In accordance with this, female civil servants can cross the border of Ukraine without hindrance with their child(ren).<sup>91</sup>

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<sup>90</sup> EWB: 1

<sup>91</sup> EWB: 1

## 2. Documentation

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### 2.1. General documentation

The legislation that regulates the departure of Ukrainian citizens abroad is the “*Law of Ukraine on the Procedure for Exiting/Entering the Territory of Ukraine by Ukrainian Citizens*”.<sup>92</sup> According to Article 2 of the law, Ukrainian citizens need to present one of the following documents when exiting or entering state borders:

- Ukrainian passport<sup>93</sup>;
- Diplomatic passport;
- Service passport;
- Seafarer’s passport;<sup>94</sup>
- Crew member’s certificate
- Identity card – for return to Ukraine.<sup>95</sup>

As an extraordinary procedure during martial law, the State Border Guard Service of Ukraine (SBGS) adopted an internal procedure, allowing only people originating from areas occupied by Russian forces and areas of hostilities to exit from Ukraine on an internal passport. The requirement was that the persons did not hold residential registration in other parts of Ukraine. If they at one point had obtained a residential registration in another place in Ukraine, they were obliged to issue a foreign passport at the area of registration.<sup>96</sup>

A Ukrainian citizen from the territories of active hostilities can only exit Ukraine one time with an internal passport. If the same person exits Ukraine more than once, the person is obliged to present the formal Ukrainian passport for travel abroad.<sup>97</sup>

### 2.2. Document requirements during martial law

The requirements for supporting documents for crossing the border for Ukrainian citizens during the period of martial law are described in article 2.1–2.13 in “*Resolution No. 57 of the Cabinet of Ministers, Rules for Crossing the State Border of Ukraine by the Citizens of Ukraine*”.<sup>98</sup>

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<sup>92</sup> Ukraine, *Закон України Про порядок виїзду з України і в’їзду в Україну громадян України [Law of Ukraine On the procedure for leaving Ukraine and entering Ukraine for citizens of Ukraine]*, 1994, latest amendment 30 November 2021, [url](#)

<sup>93</sup> It is the so-called “*foreign passport*”, and not to be confused with the “*internal passport*,” which is a Ukrainian internal identity document.

<sup>94</sup> Sailor’s identity card

<sup>95</sup> Non-Ukrainian Organisation working in Ukraine: 10; Ukraine, *Закон України Про порядок виїзду з України і в’їзду в Україну громадян України [Law of Ukraine On the procedure for leaving Ukraine and entering Ukraine for citizens of Ukraine]*, 1994, latest amendment 30 November 2021, [url](#)

<sup>96</sup> SBGS: 31; R2P: 3

<sup>97</sup> R2P: 18

<sup>98</sup> Non-Ukrainian Organisation working in Ukraine: 11-12; Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution no. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 1-13, [url](#)

According to the rules, the documentation requirements for each category are:

- Persons with disabilities:<sup>99</sup>
  - A certificate confirming the relevant status, or;
  - A pension certificate, or;
  - A certificate confirming the appointment of social assistance in accordance with the Laws of Ukraine, which indicates the group and cause of disability, or;
  - Certificates for receiving benefits by persons with disabilities who are not entitled to pension or social assistance, according to the form approved by the Ministry of Social Policy.
- Persons accompanying a spouse with a disability:
  - Documents confirming family ties and disability.
- Persons accompanying one of their or spouse's parents with a disability:
  - Documents confirming family ties, marriage, and disability;
  - Documents of cohabitation or responsibility as caregiver confirmed by an act that establishes the role as caretaker or documents (certificates) on receiving compensation (benefits, allowances) for care
- Persons providing permanent care for and accompanying persons with disabilities:
  - Documents (certificates) on receipt of compensation (benefits, allowances) for care, or;
  - Documents confirming disability, and;
  - Act of establishing the fact of providing care.
- Parents, guardians, custodians, adoptive parents, foster parents accompanying a child under the age of 18 of their responsibility:
  - The child's birth certificate, or;
  - Documents confirming the relevant authority of a person accompanying a child with a disability (in the case of being accompanied by a guardian, one or both adoptive parents, or foster parents);
  - Certificate confirming the appointment of social assistance, which specifies the status of "child with a disability", or;
  - Certificate of receipt of state social assistance for children with a disability.
- Parents accompanying a dependent adult child with a disability:
  - Birth certificate and;
  - Documents confirming the disability.
- Grandmothers, grandfathers, adult siblings, stepmothers, stepfathers (if they are subject to conscription for military service during mobilisation) who accompany children with disabilities:
  - Supporting documents and;

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<sup>99</sup> Non-Ukrainian Organisation working in Ukraine: 13; Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution no. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 1, [url](#)

- Documents confirming family ties.
- Persons in need of constant care:
  - Accompanied by one of the family members of the first degree of consanguinity.
    - Documents confirming family ties and;
    - Conclusion of the medical advisory commission of the health care institution about the need for constant external care.
  - Accompaniment of a person, who provides permanent care for the specified persons:
    - Documents (certificates) on receipt of compensation (benefits, allowances) and;
    - Conclusion of the medical advisory commission of a health care institution on the need for permanent external care and;
    - Act of establishing the fact of providing care.
- Guardians accompanying persons (recognised by the court as incapable) with a disability:
  - Decision on the appointment of a guardian for such a person and;
  - In case a guardian has not been appointed for such a person, an adult family member of the first or second degree of consanguinity:
    - Documents confirming family ties, and disability.
- Men between the ages of 18 and 60 crossing the border independently having a child with a disability or a person in need of constant care:
  - Certificate of registration at the Ukrainian consulate at the place of residence of the child or person;
  - Documents giving the right to leave (Disability and family ties confirmation or guardianship documentation).
- Mother and/or father, guardian, custodian, one or both adoptive or foster parents accompanying a child suffering from the approved type of diseases:<sup>100</sup>
  - Certificate of receipt of state aid for a child suffering from certain diseases, or;
  - A document issued by the medical advisory commission of a health care institution, and;
  - Documents confirming family ties (in the case of accompaniment by the mother and/or father), or;
  - Documents confirming the relevant authority of the person accompanying such a child (in the case of accompaniment by a guardian, custodian, one or both adoptive parents, or foster parents).
- Injured persons from the defence and security forces for treatment abroad:<sup>101</sup>
  - Passport of a citizen of Ukraine to travel abroad or;

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<sup>100</sup> Non-Ukrainian Organisation working in Ukraine: 13; Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 2, [url](#)

<sup>101</sup> Non-Ukrainian Organisation working in Ukraine: 13; Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 7, [url](#)

- An internal passport of a citizen of Ukraine (in their absence - documents containing information about the person) and;
- Conclusion on the need for treatment abroad and;
- Letter from the Ministry of Health on the agreement with the foreign country, incl. the acceptance of a health care institution.
- Drivers of medical cargo, and humanitarian aid for the needs of the Armed Forces or other military formations:<sup>102</sup>
  - Note on the appropriate decisions on traveling outside Ukraine from:
    - Military or law enforcement agencies;
    - Medical institutions;
    - Senders or recipients of humanitarian aid;
  - Information about the person in the Shliakh system.<sup>103</sup>
- Employees of railway enterprises:<sup>104</sup>
  - Note on relevant decisions from:
    - Ministry of Infrastructure regarding employees of JSC Ukrainian Railways;
    - Regional or Kyiv city military administrations.
- Athletes:<sup>105</sup>
  - Note on the decision of the Ministry of Youth and Sports.
- Males aged 18 to 60 working on sea vessels:<sup>106</sup>
  - Cadets of educational institutions:
    - Seafarer's identity card;
    - Certificate from the educational institution confirming the practical training;
    - Military accounting documents with the appropriate marks of the district.
  - Persons travelling to work as a crew of ships:
    - Seafarer's identity card;
    - Crew list;

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<sup>102</sup> Non-Ukrainian Organisation working in Ukraine: 13; Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 8, [url](#)

<sup>103</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

<sup>104</sup> Non-Ukrainian Organisation working in Ukraine: 13; Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 10, [url](#)

<sup>105</sup> Non-Ukrainian Organisation working in Ukraine: 13; Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 11, [url](#)

<sup>106</sup> Non-Ukrainian Organisation working in Ukraine: 13; Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 12, [url](#)

- Confirmation from the Shipping Administration on receipt of copies of educational and qualification documents.
- Other persons travelling to work on sea vessels:
  - Seafarer's identity card;
  - Confirmation from the Shipping Administration on receipt of copies of educational and qualification documents;
  - Military accounting documents with the corresponding marks of the district.
- Aviation personnel, state inspectors for aviation supervision or persons authorised to conduct inspections of the State Aviation Service, and employees of the State Aviation Enterprise "Ukraine".<sup>107</sup>
  - Concluded employment contract or concluded contract for simulator training;
  - Confirmation provided by the State Aviation Administration that the person belongs to aviation personnel and has the appropriate certificate;
  - Order of the subject of aviation activity on a business trip of a person abroad.
  - Military registration documents
  - Permission to leave the place of residence
  - Order of the company for the business trip

## 2.3. Military documents

The procedure for documents issued to conscripts and reservists is described in Resolution 1487 from the Cabinet of Ministers.<sup>108</sup> According to the resolution, the following documents are issued to military personnel:<sup>109</sup>

- Conscripts – a certificate of registration at the conscription station;
- Persons bound for military service – a military ticket or a temporary certificate of a conscript;
- Reservists – a military ticket.

According to the Ministry of Defence, the certificate for military registration covers a specific area and applies to the age category of 18–27, who are exempted from mobilisation. Young men aged 17 years are

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<sup>107</sup> Non-Ukrainian Organisation working in Ukraine: 13; Annex 3, NACP, *Background information on the categories of persons liable for military service who are allowed to travel outside Ukraine during martial law*; Ukraine, Кабінет Міністрів України [Cabinet of Ministers of Ukraine], *Про затвердження Правил перетинання державного кордону громадянами України [On the approval of the Rules for crossing the state border by citizens of Ukraine]*, Resolution No. 57, 27 January 1994, latest amendment 18 April 2022, article 2, paragraph 13, [url](#)

<sup>108</sup> 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, [url](#)

<sup>109</sup> Non-Ukrainian Organisation working in Ukraine: 15; Ministry of Defence and State Border Guard Service: 7; 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](#)



issued the certificate in order to be registered to serve in a specific military area. The certificate contains personal data and information on the status of their military service.<sup>110</sup>

A person who is drafted or who concluded the military contract receives a military ticket from the unit in which they were registered. The military ticket contains information about achievements, positions, titles, ranks etc. Hence, men reaching the age of 27 are obliged under the regulations for mobilisation. The territorial staffing centre is in charge of issuing a document that indicates whether someone is obliged for mobilisation or issuing a temporary certificate for exemption from mobilisation.<sup>111</sup>

Persons excluded from military service have a special note in their military document saying that they are excluded from military service. In addition, a special mark with the Ukrainian trident appears in the note. If a person is excluded based on a medical condition, they are provided with an annex (which is called annex 4) from the Military Medical Commission stating that the person should be excluded. If the exclusion is based on a severe crime, the person is acquainted with a document from the court with the decision.<sup>112</sup>

Persons exempted or excluded from military service have to receive the necessary documents prior to receiving the exemption certificate from the territorial military staffing centres. Once the required documents are obtained, they can receive the note/certificate that grants them exclusion or exemption from drafting.<sup>113</sup>

According to a non-Ukrainian Organisation working in Ukraine, line 15 in the military ticket of unranked, sergeants and master-sergeant servicemen is reserved for the stamp as unfit for military service with removal from military registration. Line 16 of the military ticket notes if the citizen is excluded from military registration after reaching the maximum age of being in the reserves.<sup>114</sup>

The same source noted that line 13 of the temporary certificate of a conscript informs whether a conscript is included in or removed from the military register. The ground for exclusion is provided in line 14.<sup>115</sup>

When a person is completely excluded from military service both in peacetime and during martial law, the military ticket will state “excluded from military service” which in Ukraine is called a ‘white ticket’.<sup>116</sup>

## 2.4. Databases used to verify documents

The State Border Guard Service of Ukraine (SBGS) has a set of databases to register information and verify documentation given to the border guards at the border crossing points (BCP).<sup>117</sup>

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<sup>110</sup> Ministry of Defence and State Border Guard Service: 8

<sup>111</sup> Ministry of Defence and State Border Guard Service: 9

<sup>112</sup> Ministry of Defence and State Border Guard Service: 11

<sup>113</sup> Ministry of Defence and State Border Guard Service: 12

<sup>114</sup> Non-Ukrainian Organisation working in Ukraine: 16

<sup>115</sup> Non-Ukrainian Organisation working in Ukraine: 17

<sup>116</sup> R2P: 19; Ministry of Defence and the State Border Guard Service: 11

<sup>117</sup> Non-Ukrainian Organisation working in Ukraine: 18

### 2.4.1. Shliakh (ШЛЯХ)

“Shliakh” (Шлях), meaning “The Path,” is a system administered by the Ministry of Infrastructure and the State Service of Transport Safety (UkrTransBezpeka), which are used by the SBGS at the BCPs to verify permissions to cross the border of men of conscription age.<sup>118</sup>

The system has been in use since March 2022. The Shliakh system is storing information on men liable for military service, thus enabling the authorities to enter data and hold records of male drivers, who are allowed to cross the border for transport of military and medical equipment and humanitarian aid.<sup>119</sup>

According to the Non-Ukrainian Organisation working in Ukraine, the military or medical authorities submit the request to the Ministry of Infrastructure after which the information is forwarded to the SBGS for approval. Subsequently, SBGS can grant the driver permission to cross the border.<sup>120</sup>

The system is intended for obtaining permission for transportation during martial law in the following cases:<sup>121</sup>

- International transportation of passengers by bus;
- International transportation of dangerous goods and hazardous waste by trucks;
- International transportation of goods by trucks (except transportation of dangerous goods and hazardous waste).

As described in [section 3.4](#), the National Agency for Corruption Prevention (NACP) highlighted the Shliakh system as one of the most prevalent corruption schemes since 24 February 2022 and it still has a high risk of abuse.<sup>122</sup> In general, according to the NACP, the system is flawed and there are no clear mechanisms in place to detect abuse of information placed in the system such as databases of organisations or registers of drivers.<sup>123</sup>

On an overall level, the authorities have expressed willingness to optimise the system.<sup>124</sup> Since October 2022, the Ministry of Infrastructure and the UkrTransBezpeka have been hiring new people to administer the Shliakh system. On social media, officials are announcing new amendments to the system and there seems to be a higher tendency to report corruption cases. However, at the time of the drafting of this report, the Cabinet of Ministers has not yet approved the necessary documents for the implementation of improvements to the system.<sup>125</sup>

According to the non-Ukrainian Organisation working in Ukraine, there have not been any regulations of the system since March 2022.<sup>126</sup>

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<sup>118</sup> Non-Ukrainian Organisation working in Ukraine: 18; NACP: 8

<sup>119</sup> Non-Ukrainian Organisation working in Ukraine: 18; R2P: 16

<sup>120</sup> Non-Ukrainian Organisation working in Ukraine: 18

<sup>121</sup> Non-Ukrainian Organisation working in Ukraine: 19

<sup>122</sup> NACP: 27; NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, pp. 113-172

<sup>123</sup> NACP: 31

<sup>124</sup> NACP: 33

<sup>125</sup> NACP: 32

<sup>126</sup> Non-Ukrainian Organisation working in Ukraine: 20

#### 2.4.2. DIIA [Дія]<sup>127</sup>

The DIIA database is a digital interaction application between the Ukrainian authorities and the citizens. It is an online platform that contains personal certificates, including passports, driving licences, COVID-vaccination, tax-number, IDP-certificate etc.<sup>128</sup>

According to the non-Ukrainian Organisation working in Ukraine, DIIA is not applied at the BCPs, since it is not a validation tool for identity documents. However, it can be used to identify a Ukrainian citizen entering Ukraine in case of a lack of identity documents. DIIA is not applicable in the temporarily occupied territories.<sup>129</sup>

The same source noted that there were plans to integrate information from the military administrations into DIIA, allowing border guards to receive military documentation through the application. However, as of 9 February 2023, it has not been implemented so far.<sup>130</sup>

Contrary, the SBGS informed that the widespread falsifications resulted in integration and expansion of databases and registers, including the DIIA application. It enables the SBGS to send any request to the system for any kind of document and receive a reply within a few seconds.<sup>131</sup>

The access to military documents was also corroborated by the NACP who noted that the SBGS has received online access to some enlistment documents from the military recruitment offices.<sup>132</sup>

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<sup>127</sup> DIIA is an acronym of the Ukrainian words “Держава і Я” – *The State and me*.

<sup>128</sup> R2P: 16; Non-Ukrainian Organisation working in Ukraine: 21

<sup>129</sup> Non-Ukrainian Organisation working in Ukraine: 21

<sup>130</sup> Non-Ukrainian Organisation working in Ukraine: 22

<sup>131</sup> SBGS: 36

<sup>132</sup> NACP: 9

## 3. Situation at the borders

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### 3.1 Procedures at the border

When a person approaches the border crossing point (BCP), all relevant documentation must be presented to the border guards. If a person does not have all the relevant documents confirming the legal grounds for exiting Ukraine, the person will not be permitted to cross the border.<sup>133</sup>

According to the National Agency for the Corruption Prevention (NACP), when people approach the BCPs, they often present a large pile of documents. It is the procedure that border guards verify the seals, stamps and signatures. However, it is hard to analyse all documents, and it is more difficult to detect genuine documents that are corruptly issued compared to forged documents.<sup>134</sup>

The SBGS noted that they have several measures to detect forgery and illegal attempts to cross the border. For instance, they have a two-step mechanism of control measures, when Ukrainian male citizens aged 18–60 approach the BCPs.<sup>135</sup>

The first line of control takes place with the first border guard. Passports, military papers and documentation for exemption from military service, such as medical papers, children's birth certificates etc. will be checked for apparent forgeries or other indicators of possible falsifications.<sup>136</sup>

Furthermore, all males aged 18–60 will pass through a second line of control carried out by an experienced operational officer. This line of control includes an interview with the person and an in-depth inspection of the documentation, comparing it with samples and other relevant information. The operational officer may contact the relevant issuer of documents, such as military recruiting centres and commissariats, medical institutions etc. In addition, the SBGS is authorised to confiscate the person's mobile phones in order to read the data and lines of communication to detect signs that may indicate the illegal acquisition of documents.<sup>137</sup>

Relevant equipment to check most documents at the BCPs exists. When a more comprehensive investigation is needed, the border guards can request a mobile laboratory to conduct a more thorough forensic examination.<sup>138</sup>

The SBGS also conducts regular analyses of certain issues. For instance, there are monthly analysis of patterns among truck drivers being sent to the Ministry of Transportation and Infrastructure, which is the responsible authority for the Shliakh (ШЛЯХ) system that regulates permissions for drivers to cross the border.<sup>139</sup> For more information on the Shliakh (ШЛЯХ), please refer to [section 2.4.1](#).

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<sup>133</sup> SBGS: 29

<sup>134</sup> NACP: 41

<sup>135</sup> SBGS: 35, 40

<sup>136</sup> SBGS: 40

<sup>137</sup> SBGS: 41

<sup>138</sup> SBGS: 42

<sup>139</sup> SBGS: 45

Even though the SBGS had to recruit more personnel after the full-scale invasion, it has been a priority to retain the experienced passport specialists in the first and second line of control. This also enables the SBGS to maintain uniform procedures at the different BCPs.<sup>140</sup>

The NGO, Right to Protection (R2P), that monitors the borders, however, noted that it was common that border guard officers at the BCPs were regularly replaced with new staff. The procedure is that newly recruited border guards refer to the Head of Shift at the BCP for guidance and education.<sup>141</sup>

## 3.2. Situation at the border: implementation of the travel restrictions

This section will address how the exit regulations have been implemented in practice at the border and how the situation has changed during the course of the full-scale Russian invasion. The chapter touches upon the prevalence of inconsistency, irregularities and internal procedures beyond legal regulations at the border crossing points (BCPs).

### 3.2.1. The situation at the border in the beginning of the full scale Russian invasion

According to the State Border Guard Service (SBGS), the situation at the borders was chaotic during the first period following the full-scale Russian invasion of Ukraine on 24 February 2022. In the first hours of the invasion, every person who approached the BCPs were allowed to cross by the SBGS.<sup>142</sup> In the following days, further instructions were given to the border guards resulting in higher compliance between the exit regulations specified in Resolution No. 57 and the internal regulations of the SBGS.<sup>143</sup>

Moreover, in the first period following the invasion, the rules for crossing the border were loosely defined, and it was not clear which documentation was required for lawfully exiting Ukraine. This resulted in misinterpretations and arbitrary decisions whereby the SBGS adopted internal and informal procedures beyond legal regulations.<sup>144</sup> For instance, there were cases of persons, who were lawfully allowed to cross, but were rejected at the BCPs by the border guards in nonconformity with the legislation.<sup>145</sup> There were also incidences of students who, despite prohibition from exiting Ukraine, nevertheless were granted permission to exit.<sup>146</sup>

The NGO, NEEKA, pointed to the suspension of public services in the beginning of the war, resulting in a situation where many Ukrainians arrived at the border without personal and military documents. In this period, it was a procedure by the SBGS to allow border crossing with copies of passports.<sup>147</sup> In addition to this, UNHCR highlighted that during the first weeks following the Russian invasion, third-country nationals, including refugees and holders of complementary protection in Ukraine, were able to leave Ukraine and

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<sup>140</sup> SBGS: 43

<sup>141</sup> R2P: 5

<sup>142</sup> SBGS: 9

<sup>143</sup> SBGS: 11

<sup>144</sup> NACP: 12-13; NEEKA: 4

<sup>145</sup> NACP: 13; UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 173

<sup>146</sup> NACP: 12-13

<sup>147</sup> NEEKA: 4

seek protection in EU countries and Moldova without required documents.<sup>148</sup> Contrary to this, a report by OHCHR from June 2022 indicates that persons not in possession of documents faced restrictions to their freedom of movement. For instance, at some BCPs, persons without documents, particularly members of the Roma community, were detained and denied border crossing.<sup>149</sup>

NEEKA advised that the various BCPs in Ukraine had different procedures at the beginning of the full-scale invasion. For instance, there were situations where persons rejected at one BCP would travel to another BCP to obtain permission to cross the border. In addition, there were situations where SBGS officials at certain BCPs would accept a particular certificate, whilst SBGS officials at other BCPs would not.<sup>150</sup>

Particularly, students enlisted at foreign universities were able to exit at some BCPs but were rejected at other BCPs.<sup>151</sup> UNHCR, in consultation with its partners, stated that there were cases of third country nationals who were not allowed to exit Ukraine along the border with Poland but were able to cross the border elsewhere.<sup>152</sup> In congruence with this, NACP interlocutors noted that there were forums on social media, in which discussions prevailed regarding which BCPs were easier to cross compared to others.<sup>153</sup>

The frequent changes of Resolution No. 57 may have resulted in inconsistent practices and implementation of the legislative framework at the BCPs, making it difficult for the SBGS to comply with the rules.<sup>154</sup> The frequent changes in the regulations have moreover created loopholes for people to cross the border illegally.<sup>155</sup> For instance, on 1 April 2022, amendments came into force that granted permission to exit to certain categories liable for military service. However, on 2 April 2022, changes to this provision invalidated the amendment and established that students, among others, were prohibited from crossing the border.<sup>156</sup>

### 3.2.2. An adjusted situation at the border

Sources consulted for this report differed in their views regarding when the border situation normalised. NEEKA estimated that the situation at the BCPs normalised towards the end of April 2022, when the SBGS procedures across various BCPs became uniform and standardised. The adjustment is partly based on SBGS' measures to prevent border crossing with forged documents.<sup>157</sup> UNHCR noted that since June 2022, the SBGS has resumed a stricter implementation of the law.<sup>158</sup> Supplementary, SBGS noted that the situation at the Ukrainian BCPs has become calmer in the beginning of 2023 partly because the long waiting lines for

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<sup>148</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 174

<sup>149</sup> OHCHR: *Situation of human rights in Ukraine in the context of the armed attack by the Russian Federation*, 24 February – 15 May 2022, 29 June 2022, [url](#), p. 33

<sup>150</sup> NEEKA: 7

<sup>151</sup> NEEKA: 7

<sup>152</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 174

<sup>153</sup> NACP: 23

<sup>154</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 173; NACP:14

<sup>155</sup> NACP: 16

<sup>156</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 173

<sup>157</sup> NEEKA: 4

<sup>158</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 174

crossing the borders have diminished, and partly because the rules for crossing the borders have become clearer, which has made the work of the border guards easier.<sup>159</sup>

After a period of suspension, all local administrations have resumed the issuance of documents.<sup>160</sup> Hence, SBGS indicated that there are no differences in the interpretation of the exit rules and that the procedures are uniform across the different BCPs. Moreover, the SBGS stressed that there are no exceptions for crossing the border without the required documents.<sup>161</sup> In case of controversies regarding the implementation of the rules, the SBGS Administration may be consulted for guidance.<sup>162</sup> The SBGS interlocutors furthermore informed DIS that NGOs do not have an influence on negotiations with the SBGS on behalf of a person who was rejected at the BCPs.<sup>163</sup>

Although the situation has somewhat normalised at the BCPs, NEEKA did not rule out that irregular procedures can occur.<sup>164</sup> NEEKA and R2P confirmed, however, that if there were cases of irregularity between the BCPs, it would normally not come to the attention of the NGOs.<sup>165</sup> An international organisation opined that even though the SBGS has the final word about granting permission to cross the border, different implementations of the travel regulations may still prevail.<sup>166</sup> This point was exemplified by the number of complaint letters received by the international organisation from persons not granted permission to exit Ukraine, although they reportedly were in possession of the lawful documents required for crossing the border legally.<sup>167</sup> The report of NACP moreover points to the discretionary regulations, whereby SBGS officials at BCPs made decisions on border crossings by Members of Parliament and male students studying abroad.<sup>168</sup>

As an example of inconsistency, UNHCR highlighted that as of 28 October 2022, it was no longer required to present a certificate of examination by the medical and social expert commission for men with a disability when crossing the border. Nevertheless, as of 27 March 2023, the SBGS website still displays information that the certificate is required.<sup>169</sup> In addition, on 27 January 2023, the Cabinet of Ministers made changes to Resolution No. 57 prohibiting the majority of public servants from leaving Ukraine. However, the SBGS had trouble implementing the rule, as there was no database with information regarding public servants.<sup>170</sup>

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<sup>159</sup> SBGS: 11-12

<sup>160</sup> SBGS: 30

<sup>161</sup> SBGS: 29

<sup>162</sup> SBGS: 14

<sup>163</sup> SBGS: 33

<sup>164</sup> NEEKA: 5

<sup>165</sup> NEEKA: 5; R2P: 7

<sup>166</sup> International organisation based in Ukraine: 22

<sup>167</sup> International organisation based in Ukraine: 23

<sup>168</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p.

123

<sup>169</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 173

<sup>170</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 173-174



In the same vein, there are cases of appeals against SBGS decisions of denied border crossings. However, there are no consistent case procedures, also due to the frequent changes of the border crossing regulations, and it is uncertain whether the court cases have resulted in alteration of the practices.<sup>171</sup>

The SBGS and R2P confirmed that there are procedures at BCPs that are not enforced by any legislation. For instance, as mentioned in section 2.1, the SBGS has implemented a procedure allowing only persons originating from the occupied areas and areas of hostilities to cross the border on an internal passport. If the persons are already registered with an address in areas not occupied or affected by hostilities, they are obliged to have an external passport issued in the area where they are registered.<sup>172</sup> Another practice not regulated by any legislation is the procedure of sending letters to the Administration of the SBGS by enterprises, institutions, organisations and individuals through ministries and government bodies requesting assistance to cross the border of certain men who wish to leave Ukraine. The practice is conducted based on the discretion of the authorities and the Administration of SBGS without regulation by law.<sup>173</sup>

R2P stressed that the biggest challenges at the BCPs involve situations where men excluded from military service are not aware of the requirement to present medical assessment certificates in addition to the military ticket. Secondly, some men are not familiar with the rule that men, who have served a sentence in prison, are prohibited from crossing the border.<sup>174</sup> Two other sources concurred that the periodic power cuts in Ukraine composed a key challenge at the BCPs, mainly in the period from October 2022 to January 2023, which have contributed to interruption of the access to databases, affecting the ability to crosscheck documents.<sup>175</sup>

### 3.3. Prevalence of illegal border crossing

According to the report of NACP, as of September 2022, more than 8,000 men liable for military service have attempted to cross the border illegally since the beginning of the full-scale Russian invasion. More than 5,600 of the offenders were detected outside the official border crossing points (BCPs), whereas the remaining attempted to cross illegally at the BCPs.<sup>176</sup> NEEKA referred to official data, stating that since the enactment of martial law, 12,000 men have tried to leave Ukraine illegally.<sup>177</sup>

Several sources referred to statistical data from both Ukraine and the neighbouring countries suggesting that the prevalence of illegal border crossing has decreased. However, the scale depends on the situation in Ukraine.<sup>178</sup> NACP stressed that the effort of authorities to counter misuse of the border regulations and the

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<sup>171</sup> UNHCR, Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP), April 2023, Annex 4, p. 172; NEEKA: 6; International Organisation based in Ukraine: 24

<sup>172</sup> SBGS: 31; R2P: 3

<sup>173</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p.137

<sup>174</sup> R2P: 9

<sup>175</sup> NEEKA: 10; UNHCR, Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP), April 2023, Annex 4, p. 174

<sup>176</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 114

<sup>177</sup> NEEKA: 14

<sup>178</sup> SBGS: 24; R2P: 12; NACP: 7; EWB: 2



improvement of the Shliakh system has contributed to a decrease in illegal border crossings.<sup>179</sup> Nevertheless, NACP interlocutors noted that the majority of illegal border crossings are caused by corruption.<sup>180</sup>

Two sources opined that men attempt to cross the border illegally due to loss of work and low incomes as a result of the war, rather than an attempt to escape mobilisation.<sup>181</sup> Contrary, NEEKA informed that the tendency of crossing the border illegally is widespread, partly due to the fear of forced recruitment to the military. For instance, there are examples of military officers who forcefully recruit or persuade men to join the military service against their will.<sup>182</sup> There are news articles reporting of evidence of men being roughed up by enlistment officers for refusing a summons and men being signed up unwillingly.<sup>183</sup> Europe without Barriers (EWB) noted that today most illegal border crossings are carried out for evading draft mobilisation.<sup>184</sup>

### 3.3.1. *Illegal border crossing beyond official border crossing points (BCPs)*

As of April 2023, SBGS has detained more than 11,000 individuals attempting to cross the border illegally beyond the BCPs since the beginning of the Russian invasion.<sup>185</sup> In the NACP report from October 2022, it is noted that since the beginning of the Russian invasion, more than 8,000 men liable for military service have attempted to cross the state border illegally. Out of this number, border guards outside the BCPs stopped more than 5,600 persons.<sup>186</sup>

NEEKA informed DIS that the practice of crossing the border illegally beyond the BCPs has been particularly widespread at the Ukrainian border with Hungary. The river, Tisza, flowing along the border with Hungary, composes a bypass route through which Ukrainian men flee Ukraine by water. Some men leave their cars at the river and swim across the river with swimming equipment and a wetsuit. This practice has reportedly been common since autumn 2022.<sup>187</sup> Two sources agreed, in addition, that the mountain area along the border to Romania is particularly exposed to illegal border crossing, and that the illegal border crossing beyond official BCPs is most widespread in the south-western Ukraine along the border with Romania and Moldova.<sup>188</sup> The SBGS stated that there are fewer cases of illegal border crossing attempts at the borders to Slovakia and Poland compared to Romania and Hungary.<sup>189</sup>

The SBGS has recruited officials to guard the border at selected border locations beyond the official BCPs, particularly along the Tisza River. In addition, there are sophisticated surveillance systems in place that

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<sup>179</sup> NACP: 7-8

<sup>180</sup> NACP: 25

<sup>181</sup> SBGS 28; NACP: 47

<sup>182</sup> NEEKA: 17

<sup>183</sup> Wall Street Journal (The), *A Year Into War, Ukraine Faces Challenges Mobilizing Troops*, 23 March 2023, [url](#); New York Times (The), *As Ukraine Signs Up Soldiers, Questions Arise About How It Chooses*, 28 July 2022, [url](#)

<sup>184</sup> EWB: 10

<sup>185</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 175; EWB: 3

<sup>186</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, annex 2, p.

114

<sup>187</sup> NEEKA: 1

<sup>188</sup> NACP: 11, 45-46; EWB: 3

<sup>189</sup> SBGS: 27

often detect illegal border crossings.<sup>190</sup> Despite dedicated surveillance efforts along the border, an unknown number of men succeed in exiting Ukraine illegally.<sup>191</sup>

### 3.3.2. *Illegal border crossing at the border crossing points (BCPs)*

According to SBGS as per March 2023, border guards have rejected approximately 100-200 persons daily at the BCPs for not having the legal reasons to exit. Out of this number, 10 – 30 persons were arrested daily for attempting to cross the border illegally.<sup>192</sup>

Two sources referred to SBGS data, stating that 4,100 people have attempted to cross the border illegally with forged documents as of April 2023.<sup>193</sup> On 30 July 2022, the SBGS reported an increase in the use of forged documents by men in the conscription age, according to UNHCR.<sup>194</sup> According to information from the Ukrainian media, Zaborona, the majority of criminal cases on illegal border crossings are related to the forgery of documents, particularly documents of the military medical commission.<sup>195</sup> EWB noted that illegal border crossing with forged documents is most often recorded at the border with Hungary and Poland.<sup>196</sup> See chapter [3.4.1](#) for detailed information regarding forged documents.

### 3.3.3. *Schemes for circumventing the travel ban*

The National Agency on Corruption Prevention (NACP) identified in its report eight ways for men liable for military service to circumvent the travel ban under martial law.<sup>197</sup> Some of the schemes for circumventing the travel ban are related to corruption whereas other loopholes for getting around the travel ban indicate significant shortcomings in the system of control over the border crossing of men liable for military service.

As detailed below, the most common scheme for leaving Ukraine was the enrolment as foreign student until August 2022. From October 2022, the most common scheme included the Shliakh system.

The NACP has identified cases whereby the below-mentioned schemes have occurred:<sup>198</sup>

#### **Scheme 1:** Illegal border crossing of the state border:

- Border crossing of men liable for military service at the border beyond the official border crossing points (BCPs) and without passing the border control. See [3.3.1.](#) for more information regarding illegal border crossing beyond the official BCPs;
- Crossing the border through the official BCPs using passports of a foreign country;

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<sup>190</sup> NEEKA: 46

<sup>191</sup> NEEKA: 16

<sup>192</sup> SBGS: 22-23

<sup>193</sup> UNHCR, Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP), April 2023, Annex 4, p. 175; EWB: 3

<sup>194</sup> UNHCR, Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP), April 2023, Annex 4, p. 175, 177

<sup>195</sup> Zaborona, *So Hard to Leave, So Hard to Stay. How Ukrainian Men Travel Abroad*, 17 October 2022, [url](#)

<sup>196</sup> EWB: 3

<sup>197</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p.125

<sup>198</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p.125

- Border crossing of men liable for military service at BCPs and control points through the assistance of officials from the SBGS and without mandatory border control procedures;
- Border crossing with subsequent travel abroad through the temporarily occupied territory of Crimea and the territory of the Russian Federation.

**Scheme 2:** Use of forged or corruptly obtained documents with information of exclusion from military service:

- A military ID card with a mark indicating a person's removal from military registration;
- A certificate from the Military Medical Commission on unfitness for military service with subsequent exclusion from the military registration.<sup>199</sup>

According to Zaborona, using forged 'white tickets'<sup>200</sup> to travel abroad is one of the most common ways amongst men in the conscription age to leave Ukraine.<sup>201</sup>

**Scheme 3:** Use of forged documents indicating enrolment of a student at a professional pre-university and higher education abroad. This scheme was most common during the first month after the Russian full-scale invasion until the government on 14 September 2022 changed the regulations so students were banned from leaving Ukraine.<sup>202</sup>

Reportedly, this scheme was the easiest way to leave Ukraine from July to August 2022.<sup>203</sup>

**Scheme 4:** Use of forged documents, such as falsified birth certificates, confirming the status of a father with more than three children.

**Scheme 5:** Use of forged or corruptly obtained documents confirming the need for treatment or medical rehabilitation abroad as a result of the military aggression of the Russian Federation. The methods include falsified medical certificates or documents allowing a person to cross on false presuppositions.

**Scheme 6:** Use of letters from state authorities to the State Border Guard Service (SBGS) with requests to assist persons liable for military service in crossing the state border.

**Scheme 7:** Use of the Shliakh system to register as a driver who transports medical and humanitarian aid cargo by road for the needs of the Armed Forces of Ukraine, based on false intentions.

**Scheme 8:** Use of the Shliakh system to register a driver of a business entity who carry out economic activities for the international transportation of goods and passengers by road. Departure is carried out

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<sup>199</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 125

<sup>200</sup> As described in section 2.3, the 'white ticket' is issued to someone who is completely excluded from military service both in peacetime and during martial law. The military ticket will state that the person is removed from the military register of conscripts

<sup>201</sup> Zaborona, *So Hard to Leave, So Hard to Stay. How Ukrainian Men Travel Abroad*, 17 October 2022, [url](#)

<sup>202</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 125

<sup>203</sup> Zaborona, *So Hard to Leave, So Hard to Stay. How Ukrainian Men Travel Abroad*, 17 October 2022, [url](#)

through registration as ‘second driver’. For instance, two drivers may leave Ukraine in a vehicle, and the vehicle returns to Ukraine with only one driver.<sup>204</sup>

Reportedly, the Shliakh system composed the most common scheme for leaving Ukraine by men in the conscription age from October 2022 by getting their data registered in the database by speculators.<sup>205</sup>

The eight schemes identified by NACP were also summarised by the non-Ukrainian organisation.<sup>206</sup> Typical corruption risks in the procedure for crossing the state border are detailed in [section 3.4.1](#).

Men in the conscription age, who want to leave Ukraine, reportedly make use of social media networks on Instagram and Telegram through which they find different opportunities for leaving the country. For instance, by registering as a driver of a humanitarian aid truck or obtaining forged documents exempting persons from military service.<sup>207</sup>

### 3.3.4. Organised human smuggling

According to a research report by Global Initiative, the volatile frontline has become a catalyst for illicit activities and the travel ban for men aged 18 to 60 has created a lucrative opportunity for human smugglers assisting men in exiting Ukraine through illegal means.<sup>208</sup>

In October 2022, NACP referred to data from the SBGS, stating that more than 170 criminal proceedings had been initiated for illegal transportation of persons across the state border of Ukraine.<sup>209</sup> However, it is unclear whether the number of criminal proceedings pertains to organised human smuggling or human trafficking.

Global Initiative notes that many men have succeeded in exiting Ukraine through means of smuggling at a cost of 5,000 – 10,000 Euros, mainly through Moldova and Poland.<sup>210</sup> A research update from the United Nations Office on Drugs and Crimes (UNODC) states that 22 % of respondents in a survey of arriving migrants from Ukraine in third countries between March and August 2022 responded that they had to pay someone for transportation out of the country. They paid on average the amount of 363 EUR.<sup>211</sup>

As of March 2023, the SBGS interlocutors noted that illegal border crossing was more common in the areas along the border with Romania and Hungary, as criminal groups who specialised in organised human smuggling were more prevalent. Examples of human smuggling included men in the conscription age who have been hiding in vehicles as a means to avoid mobilisation.<sup>212</sup> NEEKA stated that criminal networks or individuals of different European nationalities have been operating along the border of Ukraine. In

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<sup>204</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 126

<sup>205</sup> Zaborona, *So Hard to Leave, So Hard to Stay. How Ukrainian Men Travel Abroad*, 17 October 2022, [url](#)

<sup>206</sup> Non-Ukrainian organisation: 26-34

<sup>207</sup> DW, *How men try to get around the ban to leave Ukraine*, 19 July 2022, [url](#)

<sup>208</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 18

<sup>209</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 114

<sup>210</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 24

<sup>211</sup> UNODC, *Conflict in Ukraine. Key evidence on risks of trafficking in persons and smuggling of migrants*, December 2022, [url](#), p. 3

<sup>212</sup> SBGS: 27

exchange for payment, they have assisted Ukrainian men in the conscription age in exiting Ukraine. For instance, they have instructed men how to cross the border undetected through forests or rivers or have assisted in hiding men inside cars and trucks. This trend has prevailed since the beginning of the full-scale invasion and is still a tendency as of March 2023.<sup>213</sup> EWB noted that 140 criminal groups have been detected since the beginning of the full-scale invasion for organising border crossing in illegal ways.<sup>214</sup>

NACP could not rule out the presence of organised criminal networks assisting men in illegal border crossings outside official BCPs.<sup>215</sup> They further noted that those who attempted to smuggle themselves across the border were usually people of low income who paid a low price for smuggling compared to a higher price for obtaining forged documents.<sup>216</sup>

In an update from November 2022, the Security Service of Ukraine (SSU) stated that it has shut down an interregional criminal group's criminal activities of transporting conscripts out of Ukraine. The criminal groups offered to take their 'clients' through the Russian border, through the Sumy region or through Ukraine's western regions by using 'bypass' routes outside the BCPs. The price ranged from 2,500 to 8,000 USD per client.<sup>217</sup>

The report of Global Initiatives indicates that there was a surge in smuggling activity in 2022, mainly through western Ukraine. In addition, the Volyn region (bordering Belarus and Poland) in north-western Ukraine composed a new smuggling route for men attempting to escape the military draft. This was also seen in the regions of Zakarpattia (bordering Slovakia and Hungary) and Chernivtsi (bordering Romania and Moldova). The criminal activity in the pseudo-state of Transnistria on Ukraine's southwestern border has decreased due to improved Ukrainian border control.<sup>218</sup>

### 3.3.5. Human trafficking

According to Global Initiative, networks of Ukrainian traffickers are widespread in Ukraine, not only due to the large population movements and humanitarian needs, but also given the fact that human trafficking was deeply entrenched in Ukraine before the Russian invasion of 2022.<sup>219</sup> It is likely that there are several forms of human trafficking, including sexual exploitation, and that its prevalence has expanded following the increase in poverty and hardship.<sup>220</sup> Refugees from Ukraine are at risk of trafficking, which includes sexual exploitation, forced labour, illegal adoption and surrogacy, forced begging, and forced criminality.<sup>221</sup> Especially women are vulnerable to situations of sexual exploitation. For instance, a Ukrainian ringleader was arrested for orchestrating a trafficking ring that recruited Ukrainian women on Telegram to work as escorts abroad in Türkiye but instead were sexually exploited.<sup>222</sup> Moreover, the report notes that trafficking risks are high for Ukrainian refugees returning to Ukraine due to the scarcity of jobs and dire living

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<sup>213</sup> NEEKA: 13

<sup>214</sup> EWB: 4

<sup>215</sup> NACP: 45

<sup>216</sup> NACP: 47

<sup>217</sup> SSU, *SSU dismantles criminal group that offered draft evaders to go to Russia*, 19 November 2022, [url](#)

<sup>218</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 30

<sup>219</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 26

<sup>220</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 26

<sup>221</sup> UNODC, *Conflict in Ukraine. Key evidence on risks of trafficking in persons and smuggling of migrants*, December 2022, [url](#), p. 5

<sup>222</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 26

conditions.<sup>223</sup> Data regarding the prevalence of human trafficking is scarce, however, it is noted that this should not indicate a lack of human trafficking.<sup>224</sup> On the other hand, a report by the World Bank presents that an estimated 46,000 Ukrainians were trafficked from 2019 to 2021; 29,000 abroad and 17,000 in Ukraine. It is expected that the number have been exacerbated since February 2022.<sup>225</sup> NEEKA emphasised that since the beginning of the full-scale invasion, 430 out of 2,100 criminal proceedings were initiated based on accusations of trafficking of persons.<sup>226</sup>

Non-European citizens, including citizens from Türkiye, the Russian Federation, India, Azerbaijan, Israel, and Georgia, residing in Ukraine at the outbreak of the war, have most often made use of migrant smuggling in order to leave Ukraine. This was the group most vulnerable to human trafficking.<sup>227</sup> Moreover, those particularly exposed to risks of human trafficking include unaccompanied and separated children, internally displaced persons (IDPs), undocumented and stateless persons, Ukrainian Roma people, LGBT-persons, elderly persons and persons with disabilities.<sup>228</sup>

### 3.4. Prevalence of corruption

According to NACP, the poor quality of the legal regulation of certain procedures for men to travel abroad contributed on one hand to the inconsistency of procedures and on the other hand gave public authorities leeway to interpret the law at their discretion allowing for corruption schemes.<sup>229</sup>

NACP interlocutors noted that the majority of illegal border crossing cases were a result of corruption.<sup>230</sup> The frequent change of Resolution No. 57 has created risks of corruption.<sup>231</sup> A source noted that they could not determine if corruption was more prevalent at certain border crossing points (BCPs) compared to other BCPs.<sup>232</sup> However, NACP said that there were forums on social media, where it was discussed which BCPs were easier to cross.<sup>233</sup>

NACP interlocutors confirmed that there have been several cases of corruption in the State Border Guard Service (SBGS), but found it difficult to assess whether corruption amongst the SBGS was systematic or based on acts of individual border guards.<sup>234</sup>

However, NACP noted that corruption was less widespread within the SBGS at the BCPs compared to other sectors. It was more common to pay a doctor of a medical commission to issue an official paper confirming disability status or a medical need. The reasoning was that a person would have to pay more money to a

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<sup>223</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 28

<sup>224</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 26

<sup>225</sup> World Bank Group, *Rapid Damage and Needs Assessment February 2022 – February 2023*, March 2023, [url](#)

<sup>226</sup> NEEKA: 20

<sup>227</sup> UNODC, *Conflict in Ukraine. Key evidence on risks of trafficking in persons and smuggling of migrants*, December 2022, [url](#), p. 3-4

<sup>228</sup> UNODC, *Conflict in Ukraine. Key evidence on risks of trafficking in persons and smuggling of migrants*, December 2022, [url](#), p. 5

<sup>229</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 114

<sup>230</sup> NACP: 25

<sup>231</sup> NACP: 16

<sup>232</sup> International organisation based in Ukraine: 22

<sup>233</sup> NACP: 23

<sup>234</sup> NACP: 23



border guard than to a doctor.<sup>235</sup> NEEKA said that men liable for military service have been able to pay officials in the Medical Commission for issuing medical documents, which was reiterated in a report by Global Initiative.<sup>236</sup>

Of other state officials where corruption was prevalent, the NACP mentioned regional military administrations as well as officials from the Ministry of Infrastructure.<sup>237</sup> Moreover, one of the most serious corruption risk pertained to charity organisations that designated persons as drivers in exchange for payment, according to NACP interlocutors.<sup>238</sup> This was explained by a flawed system and lack of mechanisms for detecting abuse of charity organisations.<sup>239</sup> The NACP report highlights that 12 charity organisations and public organisations were identified for being involved in organising illegal border crossing for men liable for military service.<sup>240</sup> Global Initiative reported that the head of a charity fund was allegedly accused of helping approximately 300 men aged 18 – 60 exiting Ukraine by designating them as drivers of humanitarian cargo.<sup>241</sup> Finally, NACP highlighted that NGOs were often involved in corruption through the issuance of falsified documents to high-profile officials or members of parliament to circumvent the travel ban.<sup>242</sup>

### 3.4.1. Corruption risks

The NACP identified in its report<sup>243</sup> seven corruption risks, which are summarised below:

**Risk 1:** Abuse of officials when making decisions on the departure of persons liable for military service as drivers of humanitarian aid or cargo by using the Shliakh system.

Those involved in the abuse included officials of the Ministry of Infrastructure, regional military administrations or persons authorised to perform functions of the state or local government, officials of charitable foundations, public organisations or other legal entities. Moreover, corruption under this risk category may include officials of the State Service of Ukraine for Transport Safety when information was entered into the Shliakh system as well as the State Border Guard Service (SBGS) involved in travel decisions for drivers of humanitarian cargo, who were liable for military service.

The report refers to Resolution No. 57 of the Cabinet of Ministers, which authorises the Ministry of Infrastructure and the regional military administrations to make decisions on the reservation of drivers for medical and humanitarian aid. This regulation has created corruption risks, as there were no criteria and procedures for making decisions on the reservation of drivers liable for military service. Consequently, officials of the Ministry of Infrastructure and regional military administrations were able to exercise wide discretion when reserving men liable for military service as drivers in exchange for undue benefits.

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<sup>235</sup> NACP: 25

<sup>236</sup> NEEKA: 11; Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 24

<sup>237</sup> NACP: 26

<sup>238</sup> NACP: 29

<sup>239</sup> NACP: 31

<sup>240</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 130

<sup>241</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 25

<sup>242</sup> NACP: 21

<sup>243</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2



Some of the reasons why the Shliakh system contributed to corruption risks included the following factors:

1. Unclear practice criteria for making decisions on whether drivers may travel abroad;
2. Lack of resources to verify the accuracy of information provided in the applications to register a person in the Shliakh system;
3. No requirement of the driver's right to drive vehicles;
4. Lack of proper control over the entering about the driver into the Shliakh system, which is administered by the State Service of Ukraine for Transport Safety.<sup>244</sup>

According to interlocutors of the NACP, the Shliakh system constituted a high risk of abuse and highlighted that it has been one of the most prevalent corruption schemes since 24 February 2022.<sup>245</sup>

**Risk 2:** Officials of business entities licensed to carry out economic activities for international transportation of passengers by road, who obtained unlawful benefits by assisting persons liable for military service in departing Ukraine as bus drivers through the use of the Shliakh system.

Under martial law, business entities could obtain a license to carry out passenger transportation by bus, which was authorised by the Shliakh system. According to Resolution No. 57 of the Cabinet of Ministers, bus drivers who were authorised in the Shliakh system had the right to travel abroad for up to 45 days.

This type of corruption was caused by the fact that two drivers were allowed to be registered for departing in one bus of the license carrier, which enabled the second driver to stay abroad for personal purposes. Moreover, the conditions that state authorities did not monitor compliance with the purpose of the driver's trip and the time duration allowed for staying abroad were some of the factors that contributed to this corruption risk.<sup>246</sup>

**Risk 3:** Abuse by officials of state bodies when sending letters to the Administration of the State Border Guard Service (SBGS) requesting permission to travel abroad on behalf of men liable for military service.

This corruption risk was implemented through the application of enterprises, institutions, organisations and individuals to the relevant ministry or central government body with a justification of travelling abroad. Subsequently, the relevant ministry or government body sent a letter to the Administration of SBGS with a request to assist certain men during border crossing control. The Head of the SBGS forwarded the information to the SBGS officials at the border crossing point (BCP) and instructed them in granting the man, or group of men, permission to cross the border.

The decision of granting this permission was subject to the absolute discretion of the authorities receiving the request for assistance and officials of the SBGS Administration. According to the report of NACP, this created favourable conditions for corruption.<sup>247</sup>

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<sup>244</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 131-132

<sup>245</sup> NACP: 27

<sup>246</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 135

<sup>247</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 137

**Risk 4:** Abuse by officials of the SBGS for facilitating illegal border crossing outside the official border crossing points (BCPs) by providing information on locations free from border patrols, failing to register information on border crossing, and accepting forged documents or documents that do not give permission to travelling abroad.

Generally, the travel restrictions have fuelled a demand for assistance from the SBGS in crossing the border. The rules in Resolution No. 57 did not oblige the SBGS to inform the relevant authorities of drivers' overstay abroad and there were no regulations for information exchange and interaction between state bodies and the SBGS officials. Hence, the unrestricted discretion created the risk that SBGS officials may receive undue benefits for not providing information to relevant state bodies and authorities.

The NACP has provided six reasons that allow for corruption risks in the activities of the SBGS:

1. Low salaries of the SBGS officials who carry out border control;
2. Lack of authority of the SBGS to check information on military registration of persons liable for military service;
3. Lack of internal SBGS procedures on controlling the border crossing of persons liable for military service under martial law;
4. Non-transparent rules for crossing the state border, as the legislation does not provide an exclusive list of documents granting permission to leave Ukraine. Moreover, there is an inconsistency between the list of required documents on the website of SBGS and the rules of Resolution No. 57. This allows SBGS officials to interpret the requirements at their discretion;
5. Lack of access of the SBGS to the Unified State Register of Conscripts to control the border crossing by persons liable for military service;
6. The list of information on men aged 18 to 60 who cross the state border, which is entered into an information system, does not include information on the grounds of departure and supporting documents as well as the duration of staying abroad.<sup>248</sup>

**Risk 5:** Abuse by military personnel at territorial recruitment centres (TRCs) and social support centres (SSCs) for issuing or assisting in issuing forged military registration documents entitling men aged 18 to 60 to travel abroad. The risk furthermore included abuse by doctors of military medical commissions (MMCs) for issuing conclusions on temporary unfitness for military service due to health reasons or unfitness for military service with exclusion from military registration.

The MMC concluded temporary unfitness for military service due to health reasons for a period of up to six months as well as exclusion from military service due to health reasons. The medical examinations were conducted by the decision of the TRC and the SSC. The constant interaction between the TRC and SSC with the MMC allegedly lead to strong and personal ties between them, which in the context of increased demand for documents for exiting Ukraine, contributed to corruption risks. The NACP report further notes that law enforcement agencies systematically exposed channels for men of military age to cross the state border, organised by TRC and SSC servicemen in collaboration with MMC doctors.

NACP provided the following causes and conditions that allowed for the above-mentioned corruption risks:

1. Strong ties of TRC and SSC managers with MMC doctors;
2. Non-transparent procedures of MMC in terms of document flow and decision-making;

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<sup>248</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 140

3. Lack of electronic document management systems;
4. Ineffective and incomplete functioning of the Unified State Register of Conscripts;
5. Ineffective control of the activities of the TRC, SSC and MMC;
6. Limited possibilities of bringing MMC doctors to criminal liability for the forgery of documents.<sup>249</sup>

**Risk 6:** Abuse of officials of military administrations, local governments, chairpersons and members of disability determinations services (DDS) as well as officials and doctors of medical institutions for issuing forged documents, including certificates of the DDS examination report on the establishment of a disability group for persons liable for military service.

For instance, the Head of the DDS was reportedly provided with excessive discretion and opportunities to manipulate the procedure, whereby the medical criteria for establishing disability included one of the corrupt practices in the issue of disability determination. Moreover, channels of obtaining corruptly forged certificates to the DDS inspection reports on the establishment of disability group have been uncovered. In the absence of SBGS tools to verify the accuracy of information regarding a person's disability allowed for border crossing on this type of illegally obtained document.

NACP identified the following causes and conditions that contributed to the risk:

1. Shortcomings and gaps in the regulatory framework for the procedures of the DDS;
2. Discretionary powers of the Head of the DDS;
3. Shortcomings in the system and procedure for applying medical criteria for determining disability;
4. Non-transparent activities of the DDS in terms of document flow and decision-making;
5. Personal contact between patients and DDS officials in the preparation and completion of the procedure;
6. Shortage of internal control regarding DDS decisions.<sup>250</sup>

**Risk 7:** Abuse of officials of military administrations for granting unimpeded permission to travel to the temporarily occupied territory of Ukraine.

One way for men liable for military service to exit Ukraine was to cross the so-called demarcation line on the temporarily occupied territory or crossing through the territory of the Russian Federation, Georgia and Belarus. The military administration granted the right to cross the "demarcation line" to provide humanitarian assistance in the temporarily occupied territory. Hence, there was a market for the sale of permits for military servicemen to travel freely to the temporarily occupied territories for undue gain. Officials of the military administrations were usually the perpetrators of selling the permits.

According to NACP, causes and conditions contributing to the risk include the following:

1. Personal dishonesty of officials of military administrations;
2. Non-transparent procedure for granting travel permits;
3. Insufficient external control over the activities of military administration officials;

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<sup>249</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 143

<sup>250</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 146

4. Lack of information about persons crossing the “demarcation line” as well as electronic registers on this issue.<sup>251</sup>

### 3.4.2. Forgery of documents and illegal issuance of documents

The travel ban provoked a demand for forged or corruptly obtained documents for travelling abroad as well as for assistance from the State Border Guard Service (SBGS) officials in crossing the state border using them.<sup>252</sup> Since the beginning of the full-scale Russian invasion, SBGS have detained around 4,000 persons attempting to exit Ukraine with forged documents.<sup>253</sup> In January 2023, the Ukrainian Ministry of Internal Affairs reported that the SBGS had uncovered almost 3,800 forged documents at the BCPs since the beginning of martial law, mostly at BCPs along the border with Poland and Hungary.<sup>254</sup>

According to the SBGS, during the first period following the full-scale invasion, there was a high prevalence of forged documents.<sup>255</sup> The SBGS interlocutors opined, however, that the prevalence of forged documents has decreased as of March 2023.<sup>256</sup> It could not be determined whether some BCPs were subject to more cases of falsified documents than other BCPs, but SBGS interlocutors stated that it depended on the number of persons being processed at the BCPs.<sup>257</sup>

Sources consulted for this report provided the following details of the most commonly detected forged or corruptly issued documents provided for men aged 18 to 60 to circumvent the travel ban:

- **Documents confirming enrolment as a student in a foreign university.**<sup>258</sup> During the first months after the Russian invasion, students studying abroad were allowed to cross the border, which led to an increase in falsified admission documents to foreign education institutions. Consequently, the lawful permission of students to travel abroad was revoked in September 2022.<sup>259</sup> EWB noted that forged documents proving enrolment at a Polish high school were common and that the cost for obtaining such documents would be 1,400 – 2,200 USD.<sup>260</sup>
- **Certificates of unfitness for military service.**<sup>261</sup> NACP notes in its report that doctors of Military Medical Commissions (MMC) issued conclusions on temporary unfitness for military service for health reasons or unfitness for military service with exclusion from military registration.<sup>262</sup> EWB

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<sup>251</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 147

<sup>252</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 140; Non-Ukrainian organisation working in Ukraine: 23-24

<sup>253</sup> EWB: 3; Non-Ukrainian Organisation working in Ukraine: 24; UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 4

<sup>254</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 25

<sup>255</sup> SBGS: 15; UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 177

<sup>256</sup> SBGS: 24

<sup>257</sup> SBGS: 26

<sup>258</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 176; SBGS: 16; EWB: 5

<sup>259</sup> SBGS: 16

<sup>260</sup> EWB: 5

<sup>261</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 176; NEEKA: 11

<sup>262</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 143

noted that the so-called ‘white ticket’ contains the conclusion of the MMC and determined the fitness of a man for military service. In this regard, the perpetrators produced a fake medical statement of the MMC, which took into account the customer’s medical history.<sup>263</sup> Global Initiative reiterated that corrupt professionals, including lawyers and doctors, issued forged official documents indicating the removal of conscripts from the military register. Such a certificate would cost around 2,000 USD.<sup>264</sup>

- **Certificates of disability status.**<sup>265</sup> According to the report of NACP, a commonly issued forged document included certificates to the disability determination service (DDS), which established a disability group for persons liable for military service. Doctors of medical institutions as well as officials could issue such certificates from military administrations and security service officers. NACP noted that certificates to the DDS examination were one of the most common illegal schemes advertised on the Internet and Telegram channels.<sup>266</sup> NACP interlocutors stated that a doctor could issue an official paper confirming a disability or medical need status. Such a document would cost up to 1,000 USD. It was opined that such type of corruptly issued document was more widespread compared to falsified birth certificates, for instance.<sup>267</sup>
- **Falsified birth certificates confirming the status of parent to three or more children as well as documents proving the guardianship for children.**<sup>268</sup> The SBGS has detected falsified child certificates, which were produced professionally with laser printing. The birth certificates were intended to state that a father had three or more children, which would grant a man permission to exit Ukraine. In addition, SBGS identified forged documents proving the guardianship for children.<sup>269</sup>
- **The issuance of documents to be registered as a humanitarian cargo driver into the Shliakh system.**<sup>270</sup> EWB stated that it was the procedure to register a man as a ‘second driver’, which would be added to the Shliakh system and thereby authorising the person to cross the border. The cost of this document was 1,100 -2,000 USD.<sup>271</sup> Charity organisations allegedly constituted the largest group of perpetrators involved in transmitting lists of drivers into the Shliakh system.<sup>272</sup> Global Initiative mentions that this category composed a sophisticated fake documentation system, as corrupt officials were able to insert fake information into the Shliakh system, enabling conscripts to be registered as drivers of humanitarian aid.<sup>273</sup> 66,374 men have reportedly exited Ukraine in 2022

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<sup>263</sup> EWB: 5

<sup>264</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 24-25

<sup>265</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP), April 2023*, Annex 4, p. 176

<sup>266</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 146

<sup>267</sup> NACP: 25

<sup>268</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP), April 2023*, Annex 4, p. 176; SBGS: 17

<sup>269</sup> SBGS: 17

<sup>270</sup> EWB: 5; SBGS: 20

<sup>271</sup> EWB: 5

<sup>272</sup> NACP: 28; Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 25

<sup>273</sup> Global Initiative, *New Frontlines: organized criminal economies in Ukraine in 2022*, February 2023, [url](#), p. 25

using documents that allowed humanitarian aid workers and volunteers to leave, provided that they returned within a specific period. More than 9,300 have not returned.<sup>274</sup>

- **Letters for SBGS Administration requesting permission to travel abroad.**<sup>275</sup> According to the report of NACP, a scheme of abuse was identified with officials of state bodies who sent letters to the Administration of SBGS requesting permission to travel outside Ukraine for men liable for military service who were not reserved for mobilisation. In this regard, enterprises, institutions, organisations or individuals applied to the relevant ministry or central government body justifying the need to travel abroad. The relevant ministry or government body would then send a letter to the Administration of SBGS with a request to assist certain men in crossing the border. Such letters included information about passport details, expected date of departure, return and the reason to travel abroad. The justification and confirmation of the travel request were, according to the report, subject to 'the absolute discretion' of the authorities receiving the request for assistance, officials and the Administration of SBGs, which created lucrative opportunities for corruption. This issue was not regulated in the legislation.<sup>276</sup>

According to NACP interlocutors, it was difficult to detect official documents that were corruptly issued compared to forged documents.<sup>277</sup> Moreover, R2P noted that there was no database used at the BCPs to validate medical documents.<sup>278</sup> The NACP report states that there was an absence of tools for verifying the accuracy of information regarding disability, and generally, resources were insufficient for verifying disability status documents. NACP interlocutors confirmed this information.<sup>279</sup> Only by crosschecking with the Medical Social Expert Commission, it was possible to verify documents related to disability.<sup>280</sup>

#### 3.4.2.1. Punishment imposed for the forgery of documents

Since the beginning of the full-scale Russian invasion, 1,650 criminal proceedings have been initiated for the forgery of documents.<sup>281</sup>

- Forgery of documents entailed liability under the Criminal Code of Ukraine (CCU) article 358, paragraph 1. An individual found guilty of the forgery of certificates or other official documents can be punished with a fine of up to 1,000 tax-free minimum incomes; arrest for a term of up to six months; or restriction of liberty for a period of up to two years.
- The drawing up or issuing of certificates or other official documents on illegal premises is punishable with a fine of up to 200 tax-free minimum incomes; arrest for a term of up to six months; or restriction from liberty for a term of up to three years.<sup>282</sup>

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<sup>274</sup> Wall Street Journal (The), *A Year Into War, Ukraine Faces Challenges Mobilizing Troops*, 23 March 2023, [url](#)

<sup>275</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 137

<sup>276</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2

<sup>277</sup> NACP: 41

<sup>278</sup> R2P: 15

<sup>279</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2; NACP: 40

<sup>280</sup> R2P: 15

<sup>281</sup> NEEKA: 20

<sup>282</sup> The Criminal Code of Ukraine, *Article 358 - Forgery of documents, stamps, seals or letterheads, and sale or use of forged documents, stamps and seals* (revision on 15 April 2023), [url](#)



If a group committed any of the above actions, the offence is punishable by restriction of liberty for a term of up to five years or imprisonment for the same term.<sup>283</sup>

### 3.4.3. Anti-corruption measures

According to the State Border Guard Service (SBGS), measures have been implemented to detect forgery and illegal border crossing, especially after the integration and expansion of databases and registers.<sup>284</sup> Moreover, the SBGS has adopted a two-step mechanism at the BCPs that involves interviews and in-depth inspection of documents of men aged 18 to 60 years. The operational officer may call military recruiting centres and commissariats to validate the issuance of military documents.<sup>285</sup> In addition, the SBGS has the opportunity to request a mobile laboratory, which can conduct forensic document investigation if needed.<sup>286</sup> Whilst the staff turnover at the BCPs has been high, the SBGS prioritises keeping experienced passport specialists at the control lines to maintain uniform procedures at the BCPs.<sup>287</sup>

The National Agency for Corruption Prevention (NACP) is not a law enforcement agency but an advisory organisation, and therefore NACP interlocutors stressed the fact that they can only promote anti-corruption policies.<sup>288</sup> The agency highlighted that most Ukrainian government authorities have their own anti-corruption programs, consisting of different measures to fight corruption.<sup>289</sup> For instance, there has been lay-offs within the SBGS following the reveal of corruption incidents.<sup>290</sup> NEEKA was of the opinion that harsh sanctions had a deterrent effect on officials' involvement in corruption at the BCPs.<sup>291</sup> NACP mentions that 245 attempts of bribing border guards were recorded, while the border guards refused.<sup>292</sup>

As another corruption measure put in place, UNHCR stated in its written response that it has deployed border-monitoring teams at key BCPs along the western border of Ukraine to monitor the situation and disseminate information on the rights of persons aiming at crossing the border.<sup>293</sup> As mentioned in [section 3.2.2](#), there are cases of appeals against SBGS decisions of denied border crossings. However, it was uncertain whether the court cases had an impact on corruption prevention.<sup>294</sup>

Regarding the verification of documents, the NACP noted that the resources of SBGS were insufficient and that they urged for better anti-corruption measures covering the Ministry of Infrastructure and self-

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<sup>283</sup> The Criminal Code of Ukraine, *Article 358 - Forgery of documents, stamps, seals or letterheads, and sale or use of forged documents, stamps and seals* (revision on 15 April 2023), [url](#); UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 176; SBGS: 48

<sup>284</sup> SBGS: 35-36

<sup>285</sup> SBGS: 40-41

<sup>286</sup> SBGS: 42

<sup>287</sup> SBGS: 43

<sup>288</sup> NACP: 38

<sup>289</sup> NACP: 34

<sup>290</sup> NACP: 35

<sup>291</sup> NEEKA: 11

<sup>292</sup> NACP, *Corruption schemes and risks related to leaving the country during martial law*, October 2022, Annex 2, p. 114

<sup>293</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 178

<sup>294</sup> UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 173; NEEKA: 6; International Organisation based in Ukraine: 24



government bodies that use the Shliakh system to register drivers.<sup>295</sup> NACP furthermore recommended better access to digital systems for confirming disability status and enabling the SBGS to use simple identifiers, such as passport number or tax code number.<sup>296</sup> It was unclear to what extent the recommendations by NACP had been implemented. However, the NACP noted that the SBGS had gained improved access to military records, but not all military documents had been digitalised yet.<sup>297</sup>

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<sup>295</sup> NACP: 39-40

<sup>296</sup> NACP: 40, 42

<sup>297</sup> NACP: 43

## 4. Punishment related to illegal border crossing, military evasion and desertion

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### 4.1. The legislative framework relating to illegal border crossing

Persons who cross the border out of Ukraine through illegal means may be held liable, according to the Criminal Code of Ukraine (CCU) or the Code of Administrative Offenses of Ukraine (CAOU), depending on the offence.<sup>298</sup>

#### 4.1.1. *Illegal border crossing*

Illegal border crossing is liable under the following articles:

- Article 332.2 of the CCU stipulates that border crossing out of Ukraine, if the interest of the state is endangered or if the person crosses the state border without appropriate documents or with documents containing false information, shall be punishable by imprisonment for up to three years.<sup>299</sup>
- If the same actions, described in 332.2, are committed by an organised group, it shall be punishable by a fine of 2,000 Ukraine hryvnia (UAH) tax-free minimum incomes<sup>300</sup>, restriction of liberty for up to three years, or imprisonment for the same term with or without deprivation of the right to hold certain positions or engage in certain activities for up to three years.<sup>301</sup>
- Pursuant to article 204-1 of the CAOU, illegal border crossing or attempts to cross the border illegally out of Ukraine, both outside a Ukrainian border crossing point (BCP) and at a BCP, is subject to an administrative liability entailing a fine amounting to 100 UAH untaxed minimal personal incomes, correctional labour for a period of up to one month with a deduction of 20 percent of earnings, or administrative arrest for up to 15 days.<sup>302</sup>

#### 4.1.2. *Illegal border crossing with forged documents*

Illegal border crossing with the use of forged documents or documents containing invalid data is subject to liability under the following articles:

- Article 358, paragraph 4, of the CCU prescribes a fine of up to 850 Ukraine hryvnia (UAH), arrest for a term of up to six months, or imprisonment of up to two years in case of the use of

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<sup>298</sup> NEEKA: 21; EWB: 6; Legal Hundred: 6

<sup>299</sup> The Criminal Code of Ukraine, *Article 332-2 - Illegal crossing of the state border of Ukraine* (revision on 15 April 2023), [url](#)

<sup>300</sup> According to the Tax Law of Ukraine, an amount of 17 UAH is used for administrative offenses. Tax Code of Ukraine, *subsection 1, paragraph 5*, 6 May 2023, [url](#)

<sup>301</sup> The Criminal Code of Ukraine, *Article 332-2 - Illegal crossing of the state border of Ukraine* (revision on 15 April 2023), [url](#)

<sup>302</sup> The Code of Administrative Offenses of Ukraine, *article 204-1 - Illegal crossing or an attempt of illegal crossing of the state border of Ukraine*, 7 December 1984, [url](#); International organisation based in Ukraine: 12; Legal Hundred: 7; UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 178

knowingly forged documents.<sup>303</sup> For punishment regarding the forgery of documents, see [section 3.4.2.1](#).

- Article 204-1 of the CAOU establishes liability for border crossing attempts with no proper documents or with documents containing invalid data on the crossing of a person without permission from respective authorities. Any such act shall be subject to a fine ranging from 3,400 to 8,500 UAH (50 to 100 untaxed minimal personal incomes), correctional labour for a period of up to one month with a deduction of 20 per cent of earnings, or administrative arrest for a period of up to 15 days.<sup>304</sup>

#### 4.1.3. *Illegal border crossing based on attempt of bribery*

Attempt of bribing an official for crossing the border is subject to criminal liability under the following article:

- Article 369, paragraph 2 of CCU prescribes a fine of 1,000 – 4,000 UAH tax-free minimum incomes, restriction of liberty for a term of two to four years, or imprisonment for the same term if a proposal or promise with an improper advantage is provided to an official.
- If the actions are repeatedly committed, article 369, paragraph 2 prescribes imprisonment for a term of three to six years and a fine of 500 to 1,000 UAH tax-free minimum incomes, with or without confiscation of property.
- If a group commits the same actions, it shall be punishable by imprisonment for a term of four to eight years with or without confiscation of property.<sup>305</sup>

#### 4.1.4. *Border crossing based on illegal movement of persons*

The illegal movement of persons refers to organised human smuggling, which is liable under the CCU:

- Article 332, paragraph 1 of the CCU criminalises the illegal movement of persons across the state border. The article prescribes imprisonment for a term of three to five years for the illegal movement of persons across the state border.
- Article 332, paragraph 2 of the CCU prescribes imprisonment for a term of seven to nine years for the same action committed by a group.<sup>306</sup>

According to an international organisation and Legal Hundred, the article does not penalise persons who have been subjected to human smuggling across the border, while it penalises organisers of human smuggling.<sup>307</sup>

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<sup>303</sup> The Criminal Code of Ukraine, Article 358 - *Forgery of documents, stamps, seals or letterheads, and sale or use of forged documents, stamps and seals* (revision on 15 April 2023), [url](#); UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 176; EWB: 7

<sup>304</sup> The Code of Administrative Offenses of Ukraine, article 204-1 - *Illegal crossing or an attempt of illegal crossing of the state border of Ukraine*, 7 December 1984, [url](#); UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 177; SBGS: 46; EWB: 8; Legal Hundred: 7

<sup>305</sup> The Criminal Code of Ukraine, Article 369 - *Proposal, promise or providing an improper advantage to an official*, [url](#); NEEKA: 22

<sup>306</sup> The Criminal Code of Ukraine, Article 332 - *Illegal movement of persons across the state border of Ukraine*, [url](#); UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 177

<sup>307</sup> International organisation based in Ukraine: 13; Legal Hundred: 12

## 4.2. The legislative framework relating to military evasion and desertion under martial law

Evasion and desertion from military service in Ukraine are punishable by imprisonment, according to the Criminal Code of Ukraine (CCU).<sup>308</sup>

Generally, crimes committed during martial law are stricter compared to crimes committed during peacetime.<sup>309</sup> According to Legal Hundred, it was usually the commander of the suspected military offender who informed the higher command, and subsequently an investigation of the suspected crime would start.<sup>310</sup> A non-Ukrainian organisation said that investigators of the national police carried out the pre-trial investigation of criminal offences of evasion and desertion.<sup>311</sup> The State Bureau for Investigation was responsible for handling the military crimes of evasion and desertion during martial law.<sup>312</sup>

### 4.2.1. Punishment related to evasion from military service under martial law

The act of evading military service can be either an administrative offence or a criminal offence.<sup>313</sup>

The failure of a person liable for military service to report to the relevant territorial recruitment and social support centre without a valid reason, when the person has received a call-up notice, is considered an administrative offence, which is punishable under article 210 of the Code of Administrative Offenses of Ukraine (CAOU).<sup>314</sup>

- Article 210 of the CAOU stipulates that violation of legislation on defence; mobilisation training and mobilisation entail the imposition of a fine from 100 to 200 UAH non-taxable minimum incomes.<sup>315</sup>

The same actions may be qualified as evasion from conscription for military service depending on the circumstances and affiliation of the person.<sup>316</sup>

The act of evading mobilisation may constitute a criminal offence if a person received a mobilisation order and underwent a medical examination.<sup>317</sup> In such a situation, article 336 of the Criminal Code of Ukraine (CCU) will govern the criminal liability and prescribe three to five years in prison during martial law.<sup>318</sup>

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<sup>308</sup> International organisation based in Ukraine: 7, 39, 40; EWB: 9, 10; SBGS: 29; Legal Hundred: 15

<sup>309</sup> Legal Hundred: 14

<sup>310</sup> Legal Hundred: 16

<sup>311</sup> Non-Ukrainian organisation working in Ukraine: 43

<sup>312</sup> Legal Hundred: 16

<sup>313</sup> Legal Hundred: 1

<sup>314</sup> Ukrainian authorities, hearing of MFA of Denmark, *On accountability of individuals subject to military service for evading conscription, illegal crossing of the state border under the martial law regime*, 10 May 2023, 9 June 2023; International organisation: 36; NEEKA: 27; Legal Hundred: 6

<sup>315</sup> Non-Ukrainian organisation working in Ukraine: 37; Legal Hundred: 6

<sup>316</sup> Ukrainian authorities, hearing of MFA of Denmark, *On accountability of individuals subject to military service for evading conscription, illegal crossing of the state border under the martial law regime*, 10 May 2023, 9 June 2023

<sup>317</sup> Legal Hundred: 6; International organisation based in Ukraine: 2

<sup>318</sup> The Criminal Code of Ukraine, *Article 336 - Evasion from conscription during mobilisation, for a special period, for military service for conscripts from among reservists in a special period*, [url](#); Legal Hundred: 8; Non-Ukrainian organisation working in Ukraine: 40; International organisation based in Ukraine: 2; UNHCR, *Request from the Danish Immigration Service, Procedures at the Ukrainian Border Control Posts (BCP)*, April 2023, Annex 4, p. 177

- Article 335 of the CCU stipulates that evasion from conscription for military service of officers shall be punishable by restriction of liberty for up to three years.<sup>319</sup>
- Article 336 of the CCU stipulates that evasion from conscription during mobilisation for a special period is punishable by imprisonment for a term of three to five years.<sup>320</sup>
- Article 336-1 of the CCU stipulates that evasion from civil defence service in the event of targeted mobilisation is punishable by imprisonment for a term of two to five years.<sup>321</sup> According to the international organisation, civil defence service includes individuals working in the Civil Protection Service and the State Emergency Service of Ukraine.<sup>322</sup>

All cases of illegal border crossing by men aged 18 to 60 may constitute a criminal offence under article 336 of the CCU if there was sufficient evidence and if the pre-trial investigation body could prove in court that the illegal border crossing was committed for the purpose of evading mobilisation.<sup>323</sup> A person might be persecuted under article 336 of the CCU if the person refused to receive the summons after having received the mobilisation order and having passed the military medical commission, which determined fitness for military service.<sup>324</sup>

#### 4.2.2. Punishment related to desertion from military service during martial law

Desertion is subject to imprisonment for a term of five to 12 years during martial law.<sup>325</sup>

- Article 408, paragraph 3 of the CCU stipulates that desertion committed during martial law or in a combat situation shall be punishable by imprisonment for a term of five to 12 years.
- Desertion in this sense means ‘absence from a military unit or place of service without leave for the purpose of avoiding the military service, or failure to report for duty upon appointment or reassignment after a detached service, vacation or treatment in a medical facility for the same purpose’.
- Article 408, paragraph 2 of the CCU stipulates that desertion with weapons of a group of persons is punishable by imprisonment for a term of five to ten years.<sup>326</sup>

Desertion differs from absence without leave based on the assumption that the military serviceman left his unit without the intention to return, whereas unauthorised absence entails that a serviceman was missing for a period before returning.<sup>327</sup>

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<sup>319</sup> The Criminal Code of Ukraine, *Article 335 - Evasion from conscription for military service, military service for conscription of officers*, [url](#); International organisation based in Ukraine: 3

<sup>320</sup> The Criminal Code of Ukraine, *Article 336- Evasion from conscription during mobilisation, for a special period, for military service for conscripts from among reservists in a special period*, [url](#)

<sup>321</sup> The Criminal Code of Ukraine, *Article 336-1 - Evasion of civil defence service during a special period or in the event of targeted mobilization*, [url](#)

<sup>322</sup> International organisation based in Ukraine: 4

<sup>323</sup> EWB: 10

<sup>324</sup> NEEKA: 25, 26

<sup>325</sup> International organisation based in Ukraine: 7; Legal Hundred: 15; Non-Ukrainian organisation working in Ukraine: 41

<sup>326</sup> The Criminal Code of Ukraine, *Article 408, Desertion*, [url](#); Non-Ukrainian organisation working in Ukraine: 42

<sup>327</sup> International organisation based in Ukraine: 10

### 4.2.3. Punishment related to absence without leave under martial law

Absence without leave refers to a serviceman being absent from his military unit for a limited period lasting from a few weeks until a month, which is punishable for a term up of to three years.<sup>328</sup>

- Article 407, paragraph 1 of the CCU stipulates that it is punishable for an active military serviceman to be absent from a military unit or place of service without leave, or if he fails to timely report for duty without a reasonable excuse after a leave, or upon appointment or reassignment, or fails to report for duty after a detached service, vacation or treatment in a medical facility for more than three days but less than one month. Such action is punishable by detention in a penal battalion for a term of up to two years or imprisonment for a term of up to three years.
- Article 407, paragraph 2 of the CCU stipulates that it is punishable if an active military serviceman is absent from a military unit or place of service without leave, or fails to timely report for duty without a reasonable excuse for more than ten days but less than one month, or for less than ten days but more than three days if repeated during one year.
- As of 27 January 2023, a new law (see [section 4.3](#)) has made amendments to article 407, paragraph 1, adding the wording ‘Unauthorised leaving of a military unit or place of service, as well as failure to report for duty on time without valid reasons by a serviceman committed under martial law or in a combat situation’. Hence, unauthorised leave under martial law is punishable according to article 407, paragraph 1, which is carried into effect from 27 January 2023.<sup>329</sup>

It remained unclear for how long a military serviceman was allowed to be absent without facing prosecution, although it is assumed that a serviceman was allowed to be absent for a period of three days without facing legal sanctions.<sup>330</sup>

## 4.3. Legislative amendments to the Criminal Code of Ukraine and the Code of Ukraine on Administrative Offenses

The parliament of Ukraine, Verkhovna Rada, passed the new law “Law 8271 on Amendments to the Criminal Code of Ukraine, the Code of Ukraine on Administrative Offenses and other legislative acts regarding the specifics of military service under martial law or combat conditions” on 13 December 2022 and the law came into effect on 27 January 2023. With the adoption of the law, changes have been made to the Code of Administrative Offenses of Ukraine (CAOU), the Criminal Code of Ukraine (CCU) and other legislative acts of Ukraine regarding the legal liability of military offences committed during martial law or combat conditions.<sup>331</sup>

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<sup>328</sup> International organisation based in Ukraine: 10

<sup>329</sup> Law of Ukraine, *On Amendment to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and Other Regulations of Ukraine on the Peculiarities of Military Service During Martial Law or in Combat Situations*, Translation, Annex 5,1, section 2, part 4

<sup>330</sup> International organisation based in Ukraine: 10

<sup>331</sup> Law of Ukraine, *On Amendment to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and Other Regulations of Ukraine on the Peculiarities of Military Service During Martial Law or in Combat Situations*, Translation, Annex 5,1; Rubryka, *Army regulation or betrayal: what newly adopted law on military personnel responsibility entails*, 26 January 2023, [url](#)

Overall, the new law introduced harsher punishments for servicemen during martial law for acts of 'disobedience, failure to comply with an order, threats or violence against a superior, voluntary abandonment of a military unit or place of service, desertion, voluntary abandonment in conditions of martial law or a combat situation battlefield or refusal to act with weapons'.<sup>332</sup> The law aimed to standardise and strengthen the repercussion for breaking military rules and to improve the discipline in the military.<sup>333</sup> The amendments only apply to defendants who have committed criminal offences after 27 January 2023.<sup>334</sup>

The new law entailed the following relevant changes related to the criminal liability for military servicemen:

- Courts are precluded from releasing the defendant prosecuted for desertion from custody. Consequently, persons charged with desertion will remain detained until the sentence has been served.<sup>335</sup>
- Persons convicted of desertion under article 408 of the CCU cannot have their sentence suspended and cannot receive a more lenient or milder sentence than prescribed by the law as previously stipulated in article 69 of the CCU.<sup>336</sup> These changes are specified in section 2, part 1 of the law amendment.<sup>337</sup>
- Persons convicted of criminal offences during martial law cannot serve their sentence with probation as stipulated in article 75 of the CCU.<sup>338</sup> This change is specified in section 2, part 2 of the law amendment.<sup>339</sup>
- The military administrative offences stipulated in article 172, paragraphs 10 (Refusal to fulfil the lawful requirements of the commander), 11 (Unauthorised leaving of a military unit or place of service), and 13 (Abuse of power or position by a military official)<sup>340</sup> cannot not be penalised when the offence is committed during martial law according to the CAOU. Instead, the CCU is liable when offences are committed under the above-mentioned paragraphs.<sup>341</sup>
- For some criminal offences, the upper limit of punishment has been increased with the amendment law. For instance, pursuant to article 403 of the CCU, failure to comply with orders of a commander

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<sup>332</sup> Legal Hundred: 3

<sup>333</sup> Politico, *Ukraine army discipline crackdown sparks fear and fury on the front*, 5 February 2023, [url](#)

<sup>334</sup> International organisation based in Ukraine: 8

<sup>335</sup> International organisation based in Ukraine: 8

<sup>336</sup> International organisation based in Ukraine: 8; Kyiv Post, *Zelensky Signs Controversial Law Toughening Punishment for Desertion in Army*, 25 January 2023, [url](#)

<sup>337</sup> Law of Ukraine, *On Amendment to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and Other Regulations of Ukraine on the Peculiarities of Military Service During Martial Law or in Combat Situations*, Translation, Annex 5,1, section 2, part 2

<sup>338</sup> Legal Hundred: 3; Rubryka, *Army regulation or betrayal: what newly adopted law on military personnel responsibility entails*, 26 January 2023, [url](#)

<sup>339</sup> Law of Ukraine, *On Amendment to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and Other Regulations of Ukraine on the Peculiarities of Military Service During Martial Law or in Combat Situations*, Translation, Annex 5,1, section 2, part 2

<sup>340</sup> Law of Ukraine, *On Amendment to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and Other Regulations of Ukraine on the Peculiarities of Military Service During Martial Law or in Combat Situations*, Translation, Annex 5,1

<sup>341</sup> Legal Hundred: 2



upon absence during martial law is now punishable by imprisonment for a term of five to eight years instead of three to seven years.<sup>342</sup> Legal Hundred reiterated this legal change.<sup>343</sup>

- The criminal offence of ‘unauthorised leaving of a military unit or place of service, as well as failure to report for duty on time without valid reasons by a serviceman committed under martial law or in a combat situation’ is punishable by detention in a penal battalion for a term of up to two years or imprisonment for a term of up to three years. See [section 4.2.3](#).<sup>344</sup>

The amendments were introduced without public debates.<sup>345</sup> However, the international organisation did not rule out that the amendments have triggered criticism within the military, because military evaders and deserters during martial law normally would receive milder sentences than originally prescribed in the law until the adoption of the law on 27 January 2023.<sup>346</sup> Over 25,000 Ukrainians arguing that the new law was too harsh reportedly signed a petition. Despite the petition, President Volodymyr Zelenskyy refused to veto the law.<sup>347</sup> The law has been criticised for strengthening the power of the Military Law and Order Service and enabling the command to abuse this new empowerment to blackmail and punish military servicemen for any criticism. Moreover, it has been criticised that military servicemen cannot be released from their prison sentence under extenuating circumstances.<sup>348</sup>

## 4.4. Enforcement of legislation related to punishment of illegal border crossing and military evasion and desertion

The following two sections cover the enforcement of punishment related to illegal border crossing, including military evasion and desertion.

### 4.4.1 Enforcement of legislation related to illegal border crossing

DIS received two hearing statements from the Ukrainian authorities. According to one of the hearing statements, 1,093 criminal offenses were registered in 2022 pursuant to article 332 of the Criminal Code of Ukraine (CCU) pertaining to the illegal transportation of persons across the state border, of which 291 were sent to court with indictments. Pursuant to the court decisions, 12 convicts received a prison sentence, 12 received a fine and 70 were released on probation.

In the period from 24 February 2022 to 12 April 2023, following statistics were registered under the investigation units and detectives of the National Police of Ukraine:

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<sup>342</sup> Law of Ukraine, *On Amendment to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and Other Regulations of Ukraine on the Peculiarities of Military Service During Martial Law or in Combat Situations*, Translation, Annex 5,1, section 2, part 3

<sup>343</sup> Legal Hundred: 4

<sup>344</sup> Law of Ukraine, *On Amendment to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and Other Regulations of Ukraine on the Peculiarities of Military Service During Martial Law or in Combat Situations*, Translation, Annex 5,1, section 2, part 4

<sup>345</sup> Legal Hundred: 4; International organisation based in Ukraine: 9

<sup>346</sup> International organisation based in Ukraine: 9

<sup>347</sup> Politico, *Ukraine army discipline crackdown sparks fear and fury on the front*, 5 February 2023, [url](#); The New York Times, *As Ukraine Signs Up Soldiers, Questions Arise About How It Chooses*, 28 July 2022, [url](#)

<sup>348</sup> Rubryka, *Army regulation or betrayal: what newly adopted law on military personnel responsibility entails*, 26 January 2023, [url](#)

- 5,306 criminal proceedings were initiated under article 358 of the CCU related to the forgery of documents of which 2,131 were brought to court.
- 1,991 criminal proceedings were initiated under article 332 of the CCU related to illegal transportation of persons across the state border of which 311 were brought to court.
- 300 criminal proceedings were initiated under article 369 of the CCU based on attempt of bribery, of which 182 were brought to court.
- 12 criminal proceedings were initiated under article 366 of the CCU related to issuing a false official document
- Six criminal proceedings were initiated under article 368 of the CCU related to accepting an improper advantage by an official of which three were brought to court.

The most severe sanction prescribed to offenders of illegal border crossing under the martial law period was imprisonment for a term of seven to nine years with confiscation of property under article 332 pertaining to the illegal transportation of persons across the state border.<sup>349</sup>

#### 4.4.2 Enforcement of legislation related to military evasion and desertion

Legal Hundred said that generally there were limited statistics regarding the enforcement of the punishment of military evaders and deserters. Statistics may likely be published after the end of the evasion.<sup>350</sup>

As of February 2023, approximately 2,500 cases of draft evasion have reportedly been opened in Ukraine since the beginning of the invasion of which there have been 400 indictments.<sup>351</sup> NEEKA noted that since the beginning of the full-scale invasion, more than 2,100 criminal proceedings have been initiated. Out of these, more than 430 included charges for illegal trafficking of persons, 1,650 for forgery of documents, and more than 20 for draft evasion. More than 950 people have been notified of suspicion of committing these crimes, and more than 350 people have already been brought to justice.<sup>352</sup>

According to one hearing statement from the Ukrainian authorities, in 2022, 112 persons have been convicted under article 335 of the Criminal Code of Ukraine (CCU) concerning evasion from conscription, while 186 persons were convicted under article 335 of the CCU concerning evasion of conscription for military service during mobilisation in a special period. The courts sentenced 15 people to imprisonment under article 335 and 336 of the CCU, and seven persons accused of committing criminal offences under article 335 of the CCU were sentenced to restriction of liberty. In addition, 274 persons convicted of the criminal offences of evasion were released by the courts on probation.<sup>353</sup>

In another hearing statement from the Ukrainian authorities, it is stated that in the period from 24 February 2022 to 12 April 2023, the investigation units and detectives of the National Police of Ukraine investigated 4,399 criminal offences related to evasion from conscription, including 4,319 under article 336 (Evasion from conscription during mobilisation for a special period), 63 under article 337 (Evasion from

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<sup>349</sup> Ukrainian authorities, hearing of MFA of Denmark, *On accountability of individuals subject to military service for evading conscription, illegal crossing of the state border under the martial law regime*, 10 May 2023, 9 June 2023

<sup>350</sup> Legal Hundred: 13

<sup>351</sup> The International Committee of the Fourth International, *Ukraine cracks down on military “deserters”*, 2 February 2023, [url](#)

<sup>352</sup> NEEKA: 20

<sup>353</sup> Ukrainian authorities, hearing of MFA of Denmark, *On accountability of individuals subject to military service for evading conscription, illegal crossing of the state border under the martial law regime*, 10 May 2023, 9 June 2023

military registration or special (training) session), and 7 under article 335 (Evasion from conscription for military service) of the CCU. Out of these, 957 of the criminal cases were brought to court. The vast majority are held criminally liable under article 336 of the CCU pertaining to evasion from conscription during mobilisation for a special period, which constitutes failure to appear at the territorial recruitment centre following the receipt of a mobilisation order.<sup>354</sup>

Regarding desertion, 154 persons were convicted of desertion in 2022, according to article 408 of the CCU, of whom 15 were sentenced to imprisonment and 139 were released on probation. Referring to a report of the prosecutors' office for January to March 2023, the hearing statement of the MFA stated that pre-trial investigations in criminal proceedings on crimes related to desertion were completed in respect of 89 persons accused of desertion.<sup>355</sup>

Until 27 January 2023, when 'Law 8271 on Amending the Code of Ukraine on Administrative Offenses and the Criminal Code' came into effect, more lenient sentences were generally given than prescribed by the law.<sup>356</sup> In practice, courts prescribed prison sentences to evaders for a term of one to three years, although draft evasion by law is punishable by imprisonment for a term of three to five years.<sup>357</sup> Legal Hundred opined that light punishments have previously been prescribed, based on an intention to continue the service in the military forces and balance 'the purpose of punishment with the interest of the defence'.<sup>358</sup> Before the adoption of the new law on 27 January, courts 'adjudicated infractions on a case-by-case basis', whereby some perpetrators were able to escape punishment for serious breaches, while others could receive harsh sentences for less serious violations.<sup>359</sup> The Legal Hundred interlocutor stated that there was no information about the implementation of the new amendment law adopted on 27 January as of February 2023, since the judicial practice has not been formed yet.<sup>360</sup>

In an article from Al Mayadeen from 31 January 2023, it was reported, however, that the Ukrainian government had started prescribing multi-year prison sentences to accused draft evaders. Also injured men failing to report to the recruitment offices face multiple years in prison. Moreover, while many accusations of evasion have been dismissed, the courts have started handling cases of evasion.<sup>361</sup>

Regarding prison facilities, Legal Hundred informed that deserters might serve their sentences in special departments for law enforcement and military personnel within the ordinary prisons. Pursuant to article 62 of the Criminal Code of Ukraine (CCU), the court could impose punishments in a penal battalion for certain crimes, such as 'conscripts and servicemen serving on a contractual basis, officers serving in the military, officers serving on conscription, conscripts during mobilisation, for a special period, servicemen called up for military service on the call of reservists during a special period (except for female servicemen), for a

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<sup>354</sup> Ukrainian authorities, hearing of MFA of Denmark, *On accountability of individuals subject to military service for evading conscription, illegal crossing of the state border under the martial law regime*, 10 May 2023, 9 June 2023

<sup>355</sup> Ukrainian authorities, hearing of MFA of Denmark, *On accountability of individuals subject to military service for evading conscription, illegal crossing of the state border under the martial law regime*, 10 May 2023, 9 June 2023

<sup>356</sup> Legal Hundred: 13

<sup>357</sup> International organisation based in Ukraine: 5

<sup>358</sup> Legal Hundred: 13

<sup>359</sup> Politico, *Ukraine army discipline crackdown sparks fear and fury on the front*, 5 February 2023, [url](#); Kyiv Post, *Ukraine's Top General Supports Harsher Law for Deserters and Draft-dodgers*, 20 December 2022, [url](#)

<sup>360</sup> Legal Hundred: 13

<sup>361</sup> Al Mayadeen, *Ukraine begins jailing draft dodgers: MP*, 31 January 2023, [url](#)

period of six months to two years'. The article moreover stipulates that the court could substitute imprisonment for up to two years with serving in a penal battalion for the same term unless the person previously had served a sentence in prison.<sup>362</sup>

## 4.5 Other negative consequences and reprisals against military evaders and deserters

Generally, there was limited information regarding additional consequences against military evaders and deserters beyond legal sanctions. Military evaders and deserters might be subject to negative attitudes from society, including social stigmatisation.<sup>363</sup> Controversies were more likely to occur in smaller settlements or villages in Ukraine compared to bigger towns and cities. For instance, controversies might exist between persons who lost relatives in the war and persons convicted of desertion.<sup>364</sup> Given the low number of returning evaders and deserters, it is difficult to establish the prevalence of societal consequences.<sup>365</sup> Moreover, due to the principle of individual punishment, relatives of convicted evaders and deserters might not be subject to any sanctions.<sup>366</sup>

Beyond societal consequences, persons convicted of evasion and desertion might find it difficult to be hired for positions in public administration. In a suspension period, a convicted person might not be able to obtain a passport for travelling abroad.<sup>367</sup>

An interlocutor of the international organisation was of the opinion that Ukrainian citizens residing abroad potentially could be extradited to Ukraine within the framework of the 1957 European Convention on Extradition in cases where there was a verdict against them and they were under investigation for evasion or desertion. However, the interlocutor had not come across such information.<sup>368</sup>

According to an article by the International Committee of the Fourth International, the government of Ukraine cracked down on deserting soldiers. It was cited that there has been an increase in saboteurs and soldiers deserting their positions, which was also caused by the circulation of videos on social media of the forced mobilisation of Ukrainian men.<sup>369</sup> This corresponded with the information regarding Ukrainian men who periodically have been forcefully recruited to military service.<sup>370</sup> There have reportedly been so-called public scandals involving inappropriate call-ups and videos appearing to show men being roughed up by enlistment officers for refusing a summons and reports have revealed incidences of men being signed up unwillingly.<sup>371</sup>

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<sup>362</sup> Legal Hundred: 21; The Criminal Code of Ukraine, *Article 62- Custody of military servants in a penal battalion*, [url](#)

<sup>363</sup> Legal Hundred: 17; International organisation based in Ukraine: 15

<sup>364</sup> International organisation based in Ukraine: 17

<sup>365</sup> Legal Hundred: 17

<sup>366</sup> Legal Hundred: 18

<sup>367</sup> International organisation based in Ukraine:15

<sup>368</sup> International organisation based in Ukraine: 16

<sup>369</sup> The International Committee of the Fourth International, *Ukraine cracks down on military "deserters"*, 2 February 2023, [url](#)

<sup>370</sup> NEEKA: 17

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## Annex 1: Meeting notes

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### Right to Protection (R2P)

#### Meeting at Shehyni border crossing point, Ukraine, 28 February 2023

1. R2P as UNHCR partner monitors the border crossing points (BCPs) between Poland and Ukraine and provides legal assistance to persons who aim to exit Ukraine through the BCPs. Legal assistance includes information dissemination about regulations for border crossing and required documents to present to the State Border Guard Service (SBGS) officers at the BCPs. Under such circumstances, the R2P Monitors, who are present at the BCPs, may contact the lawyers of the R2P Legal Team or consult the SBGS Head of the Shift to receive clarifications on the legal rules. In addition, it is the duty of R2P Monitors to observe the amenities at the border and refer their observations to other organisations and state institutions in order to improve procedures and facilities at the border. R2P monitors also act as the link between civilians aiming to cross the border and relevant government institutions or organisations to which R2P may refer persons depending on the request of assistance. As an example, R2P highlighted that in case of miscommunication or disagreements between SBGS-officers and civilians at the BCP, R2P Monitors will convene the conversation and assist with clarification regarding the exit rules or the reason for the rejection at the border. In situations where documents need further examination, R2P Monitors may contact the Head of the Shift for consultation.
2. R2P makes use of leaflets, posters, social media and hotline to disseminate the information about their presence and function. R2P's presence at the border is funded by UNHCR. Besides that, R2P performs a lot of other important protection activities in the rest of the country in 20 oblasts of Ukraine in the framework of different projects financially supported by UNHCR and other international donors.

#### *Corruption and inconsistency in the enactment of the exit regulations*

3. According to the observation of R2P, there have not been situations where SBGS-officers have undertaken their job at the border in ways that are not compliant with the law. Nevertheless, SBGS has adopted an internal resolution regarding passports. This resolution gives persons with residential registration in areas of active hostilities permission to cross the border with Ukrainian passport, whereas remaining Ukrainian citizens are required to present their international passports. R2P cannot establish whether this internal resolution is adopted at remaining border crossing points to other neighbouring countries beyond the Polish/Ukrainian border.
4. In September 2022, the Cabinet of Ministers introduced the amendments of the rules to establish the fact of providing care for a person with disability as a reason to exit Ukraine. Since it is the obligation of local authorities to issue the documentation of this there were no general procedure or framework for enforcing this rule consistently, and consequently local authorities could issue documents, according to their interpretation, which has resulted in arbitrary procedures at the BCPs.
5. According to R2P, it is common that SBGS-officers at the BCPs are regularly replaced with new SBGS-officers. R2P informed that in situations where SBGS-officers have limited experience in border guarding it is the procedure that the newly recruited SBGS-officers refer to the Head of Shift of SBGS for guidance and education.

6. R2P stated that challenges are more or less similar at other IBCPs where R2P is also present (in Lvivska, Volynska, Chernivetska, and Vinnytska oblasts) and that enforcement of rules and procedures are more or less uniform.
7. R2P was not aware of the occurrence of persons who have been granted permission to cross the border without the required documents and certificates. On the other hand, if there were such incidences R2P would not be informed. With other words, R2P has not observed corruption in the work undertaken by SBGS.
8. The monitors of R2P were not aware of any corruption measures put in place to prevent corruption at the BCPs besides regular change of staff. However, it was the opinion of R2P that corruption is prevented through the digitalisation of services whereby Ukrainians can obtain documents online and do not have to approach the document issuance institutions in person.

### *Challenges observed at the border by R2P*

9. Regarding challenges at the BCPs, R2P highlighted that men who are excluded from military service often expect to be able to exit Ukraine with their military ticket and are not aware of the requirement of presenting medical assessment in addition to the military ticket. Furthermore, there are men who are not familiar with the ban of crossing the border for someone who has served his sentence in prison, which is marked by a special stamp in the military ticket. Finally, there have been situations where men of three or more children have been denied exit due to unawareness of the rule. For instance, if a man has three children of which one child is from a former marriage, he has to present additional proof that he is a caretaker of the third child.
10. Towards the end of 2022, persons with disability faced obstacles when crossing the border, as the rules were amended with the effect that persons with disability are required to present a pension certificate in addition to the medical certificate. The issuance of the pension certificate took one month and during that period, there was no unified template for certificate, which was a reason for the rejection at the BCPs by the SBGS.
11. R2P was not aware of the prevalence of organised human smuggling or human trafficking. R2P regularly disseminates information on risks of human trafficking and available reporting channels through their hotline, posters and leaflets in order to fight human trafficking.
12. Generally, the amount of people crossing the border has decreased significantly in 2023 compared to 2022.
13. R2P informed that at the Mamalyha border crossing point to Romania, SBGS have granted men with disability permission to cross the border without certificate of disability, but a reference has been sufficient. At the Sokyryany border crossing point to Moldova, SBGS has previously accepted a document on the receipt of social benefits for disability for men with disabilities.

### *Documents*

14. The main reason for rejection at the BCPs is due to lack of required documents as persons are not aware of the recent amendments to the law. In the case where a rejected person approaches R2P for clarification regarding their denial to cross the border, R2P may approach the Head of the Shift or the R2P Legal Team to seek clarification regarding the rejection.
15. According to the knowledge of R2P, there is no database that SBGS uses at the BCP with aim of verifying medical documents presented at the border. According to R2P, it is the Medical Social Expert Commission that can verify certificates related to disability and pension. However, R2P was

not certain about the SBGS procedures of validating medical documents and advised DIS to direct the questions on this matters to SBGS.

16. The Shliakh “the path” database is intended for storing data regarding men liable for military service who drive humanitarian cargo or transport military or medical supply. It is the military authorities that uploads information in the database, which then is approved by the SBGS at the BCPs. The DIIA database is a Ukrainian platform that includes personal certificates, including passports, driver license, COVID-vaccination, tax-number, IDP-certificate etc.
17. Regardless of residence registration, Ukrainians can request issuance of documents in any oblast of Ukraine. Some of them can be issued online and there is no need to approach document issuance institutions in person.
18. It is common that Ukrainians abroad return to Ukraine temporarily. A Ukrainian person from territories with active hostilities can exit Ukraine only one time with a Ukrainian internal passport. If the same person exits Ukraine more than once, the person is obliged to present an international passport if he/she wishes to cross the border.
19. As an additional remark, it was clarified that a ‘white ticket’ is issued to a man who is completely excluded from military service, both under martial law and in peacetime. When excluded for military conscription under martial law it is the ‘military ticket’ that is applicable.

### *Forged documents*

20. Information about forged documents did not pass to the attention of R2P, and therefore R2P could not inform about the most common type of forged documents. However, in 2022 there was some news on a mass movement of students claiming their inscription in foreign universities based on forged documents.
21. The R2P informants were not sure about the procedure following the detection of forged documents at the BCPs. Nevertheless, a representative of the Security Service of Ukraine is present at each BCP, hence in cases of forged documents, SBGS may refer the perpetrator to the security service official.

## NEEKA

### Meeting at Uzhhorod border crossing point, Ukraine, 2 March 2023

*The NGO, NEEKA, is an implementing partner of UNHCR that has worked for more than 20 years in the Zakarpattia region of western Ukraine. NEEKA is mandated to support refugees, asylum seekers, stateless persons and internally displaced persons (IDPs) with basic assistance, which include material, medical, social and legal assistance. The initial goal of the NEEKA was to protect the environment but the activities have expanded to the engagement in social, psychological and legal assistance. Particularly, the current focus of NEEKA is to support the integration of IDPs from the eastern Ukraine and to distribute humanitarian aid from their international partners. The work of the NEEKA is based on needs and trends observed through monitoring and surveys. NEEKA has offices in Ukraine, Hungary and Romania, and works in neighbouring countries of Slovakia and Poland.*

### *Border monitoring mandate of NEEKA*

1. NEEKA is monitoring the borders at five border-crossing points (BCP) on the border with Slovakia, Hungary and Romania in the Zakarpattia region of western Ukraine. NEEKA monitors four of the BCPs every day with the presence of border monitors, whereas the organisation only visits another BCP once or twice a week. NEEKA conducts surveys to understand the border crossing trends of persons leaving and returning Ukraine. At the BCPs, NEEKA has installed physical information stands with the aim of sensitising about general border-crossing information but also information regarding shelter opportunities and other available services in the neighbouring countries. Only in Uzhhorod, NEEKA has not received the permission from the City Council to install a stand at the BCP.
2. NEEKA provides legal assistance and consultations at the BCP to assist with information regarding rules for crossing the border, including required documents. In addition, persons in need can reach the NEEKA hotline to seek assistance and they will be referred to the relevant department based on their specific needs. If it is a matter related to document requirements for border crossing, the persons in need will be referred to a lawyer for legal assistance.
3. At the BCP, NEEKA is in regular dialogue with the State Border Guard Service (SBGS) to seek clarification regarding decisions at the border. There are instances where NEEKA monitors accompany rejected persons to the SBGSs to seek clarification regarding their rejection at the border.

### *Border crossing practices at the BCPs*

4. In the beginning of the full-scale invasion, many public services were suspended and many of the Ukrainians who arrived at the border were not in possession of personal and military documents, which pertained particularly to persons from eastern Ukraine. In this first period of the Russian invasion, the regulations for crossing the border were loosely defined and the SBGS adopted internal and informal procedures that allowed border crossing with copies of passports although this procedure was not lawfully enacted by the Ukrainian government. Gradually, the Cabinet of Ministers adopted more strict requirements and regulations. NEEKA estimates that the situation normalised towards the end of April where the SBGS procedures across the different BCPs became more uniform and standardised. In addition, SBGS took measures that prevented border crossing with forged documents.

5. According to NEEKA, although the situation has somewhat normalised at the BCPs, they do not rule out the possibility that irregular procedures could occur. If there were irregularities in the implementation of the exit regulations, it would normally not come to the attention of NEEKA as such information would be unofficial.
6. In the beginning of the full-scale invasion, there were cases where persons rejected at the border were not provided with a decision from the SBGS in writing, which was the basis for appealing to the head of the detachment with a complaint about the refusal to issue a written explanation. In response to the complaint, the persons had to be provided with explanations stating the reasons for refusal to cross the border. If the reasons did not comply with the law, persons could appeal to the court against the decision to refuse to cross the border. However, the number of such cases were few as the majority of the rejected persons would attempt to cross the border at another BCP instead of filing a suit against SBGS.
7. During the first months after the invasion, there were situations where persons rejected at one BCP would travel to another BCP to be granted permission to cross the border. Particularly, students enlisted at foreign universities were able to cross over at some BCP's but were rejected at other BCPs. In addition, there was a trend of persons purchasing forged disability certificates online. The SBGS officers were not able to verify the certificates, which resulted in the inconsistent and varying procedures where some BCPs accepted the certificates whereas others did not. Now it has become the procedure that SBGS crosscheck the certificates with the Medical Commission in order to validate the genuineness.
8. The Medical Commission determines the disability group category but this commission does not determine eligibility for serving in the army. The Military-Medical Commission is the entity that undertakes the medical examination and decides whether someone is fit for military service or not. The Military-Medical Commission also examines additional medical certificates from other institutions and can take a decision regardless of the disability group status issued by the Medical Commission. Permission to cross the border is granted only in case of deregistration from the military register (this occurs if the following grounds are available: recognized by the military-medical commissions as unfit for military service with exclusion from the military register; have reached the age limit for being in the reserve; terminated the citizenship of Ukraine; have been previously sentenced to imprisonment for committing a grave or especially grave crime; sent to penitentiary institutions to serve their sentence or subjected to compulsory medical measures; died or were recognized as missing or declared dead in accordance with the procedure established by law). Persons who are exempt from military service only in peacetime but are subject to mobilization during martial law are prohibited from traveling outside Ukraine.
9. In addition to men, some categories of women are not allowed to exit Ukraine. This is the case for women holding special positions in the government or city council, for instance. The categories of women who are covered by the travel ban are listed in resolution number 69 of the Cabinet of Minister adopted on the 27 of January 2023.
10. According to NEEKA, the biggest challenges at the BCPs were periodic power cuts that resulted in interruption at the BCPs and the inability to crosscheck documents in the online databases. Moreover, comprehensive examination of documents and vehicles by SBGS officers resulted in long queues at the border leaving Ukrainians to wait up to 20 hours at the BCPs.

### *Corruption*

11. NEEKA informed that they were not aware of situations where officials should have assisted men in the conscription age with crossing the border illegally. NEEKA is of the opinion that harsh sanctions had a deterrent effect on officials to carry out corrupt practices. Nevertheless, it is known that men in the conscription age have been able to pay officials in the Medical Commission to issue medical documents as a way to circumvent the exit regulations.
12. Seemingly, it was frequently practiced that men in the conscription age took advantage of the system to obtain legal documents to cross the border. For instance, there were examples of men who had obtained permission to travel abroad temporarily through the Shlyakh (“the path”) system and did not return to Ukraine after departure although they were given a fix-term travel permission.

### *Organised human smuggling and illegal border crossing*

13. NEEKA informed that there have been criminal networks or individuals of different European nationalities who have operated along the border of Ukraine. For payment, they have assisted Ukrainian men in the conscription age to exit Ukraine through illegal means – for instance, they could instruct how to cross the border undetected through forests or rivers. This trend has prevailed since the beginning of the full-scale invasion and is still a tendency at the time of this interview. In addition, there has been examples of persons hiding in buses or vehicles. NEEKA could not provide an estimation of the number of persons crossing the border illegally and with the assistance of criminal networks.
14. According to official data, since the beginning of martial law, 12,000 men have tried to illegally leave Ukraine, 15 of them have died.
15. The practice of crossing the border illegally has been particularly widespread at the Ukrainian border with Hungary. The river, Tisza, flows along the border between Ukraine and Hungary making it an advantageous opportunity to flee Ukraine through water. Some men in the conscription age leave their car at the river and swim across the river with swimming equipment and wetsuit. This practice has reportedly been common since autumn 2022.
16. Some SBGS guards are recruited to guard the border at selected border locations beyond the formal BCPs, particularly along the Tisza River, in order to prevent and detect persons from crossing the border illegally. Those who are detected for attempting to cross the border illegally are arrested. SBGS guards also crosscheck the number of passengers in vehicles at the border to detect illegal border crossing. Despite the SBGS measures along the borders, there are still an unknown number of men who manage to exit Ukraine illegally.

### *Forced / semi-forced military recruitment*

17. NEEKA informed that the tendency of crossing the border illegally is widespread partly due to the fear of being forcefully recruited to the military. For instance, it is known that military officers who forcefully recruit or persuade the men to join the military service against their will stop men in the conscription age on their way to town or job. The men who are subjected to the interrogation by military officers are brought to the military commissariat for registration from where some are sent to the frontline to replace soldiers. The tendency of forced / semi-forced recruitment is fuelled by the fact that the number of military personnel is diminishing and because soldiers at the frontline need replacement for relief. For instance, each military commissariat periodically needs to recruit a



specific number of soldiers. If the number is not reached through voluntary registration at the commissariat, the military commissariat may resort to forced or semi-forced recruitment.

Reportedly, the problem was widespread from May until August 2022 and again in January and February 2023 up to the time of this interview. Even the NEEKA border monitors have experienced incidences where they were interrogated and had to prove their humanitarian occupation and partnership with UNHCR to avoid recruitment.

18. Currently, students are exempted from military service but in future perspective, they may be called up for military service to relieve soldiers at the frontline. This discussion is currently debated within the government of Ukraine but not yet in the public.
19. Once a person receives a conscription / draft note from the military commissariat the person is obliged to attend the military commissariat for registration for military service. If the person circumvent registration at the military commissariat, the person will be convicted for committing an administrative offence, and subsequently it may turn into a criminal offence.

### *Punishment – illegal border crossing*

20. Since the beginning of the full-scale war, more than 2,100 criminal proceedings have been initiated: more than 430 of them for illegal trafficking of persons, 1,650 for forgery of documents, and more than 20 for draft evasion. More than 950 people have been notified of suspicion of committing these crimes, and more than 350 people have already been brought to justice
21. Illegal border crossing in wartime entails liability under the law. This liability may be administrative or criminal depending on the specific case. In particular, crossing the border outside of checkpoints (through the forest, river, in the trunk of a car, etc.), presenting someone else's document when crossing the border (including a woman's passport, having changed clothes accordingly) entails liability under Article 204-1 of the Code of Administrative Offenses: illegal crossing or attempting to illegally cross the state border of Ukraine.
22. Criminal liability may be incurred under the following articles:
  - Article 358 of the Criminal Code of Ukraine: Forgery of documents, seals, stamps and forms, sale or use of forged documents, seals, stamps.
  - Article 369 of the Criminal Code of Ukraine: Offering, promising or giving an undue advantage to an official.
  - Article 336 of the Criminal Code of Ukraine: Evasion of conscription for military service during mobilization, for a special period, for military service by conscription of persons from among reservists during a special period
  - Article 332-2. Illegal crossing of the state border of Ukraine.
23. Article 358 of the Criminal Code of Ukraine on forgery of documents, seals, stamps and forms, sale or use of forged documents, seals, stamps governs the criminal offence of crossing the border with corruptly obtained or forged documents for men liable for conscription under martial law.
24. Article 332 of the CCU (Illegal transportation of persons across the state border of Ukraine) applies to persons who transport persons across the border. Article 332-2 of the CCU (Illegal crossing of the state border of Ukraine) applies to persons liable for military service who crossed the border with the help of organized human smuggling.

### *Punishment of military evaders and deserters*

25. Upon receipt of the call-up and passing the military medical commission, which recognized the person as fit for military service, the person is issued a call-up for departure, indicating the date and

time of departure. If the person explicitly refuses to receive the summons, he or she is warned of criminal liability under Article 336 of the Criminal Code of Ukraine, and in case of further refusal, an act of refusal to receive the summons is drawn up, after which the person is prosecuted under Article 336 of the CCU.

26. A man liable for military service who refuse to perform service or refuse to receive a call to departure for military service is held criminally liable under Article 336 of the Criminal Code.
27. If a person has received a military call-up notice and fails to report to the territorial recruitment centre without a good reason, he or she may be held liable under Art. 210-1 of the Code of Administrative Offenses.

## Legal Hundred

Online meeting, 22 February 2023

*The Legal Hundred is an NGO that provides legal assistance to participants in the Russian-Ukrainian war 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.*

### *Legislation on evasion and desertion of military service during mobilisation:*

1. Evasion of military service can be either an administrative offense or a criminal offense. The Code on Administrative Offenses or the Criminal Code of Ukraine cannot be applied at the same time. The Code of Ukraine on Administrative Offenses regulates penalties for administrative offenses. The Code contains a chapter on liability specifically for military administrative offenses. Examples of administrative offences include the act of voluntary leaving by a serviceman of a place of service or a military unit, failure to return from a business trip, vacation, or from a medical institution. Depending on the specific circumstances, such an act may be qualified as an administrative (art. 172-11 <https://zakon.rada.gov.ua/laws/show/80731-10#Text> ) or criminal offense (art. 407 <https://zakon.rada.gov.ua/laws/show/en/2341-14#n2361>). As a rule, it is a crime if a soldier is absent for more than three days.
2. The 'Law 8271 on Amending the Code of Ukraine on Administrative Offenses and the Criminal Code' came into effect in January 2023. The law has made changes to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and other legislative acts of Ukraine regarding the specifics of military service under martial law or combat conditions. This new law excluded the period of martial law from some articles of the Code of Administrative Offenses, which means that only the criminal code is liable in cases where a person is not returning to his military station of duty. Before the adoption of the new law, absence without leave from a military unit or place of service could entail an administrative offence if it was committed for a short period of time (a couple of hours). After the adoption of the new law, a criminal punishment will be applied if someone leaves his unit or place of service. However, judicial practice has not yet developed since the law only entered into force in January 2023.
3. The new law 2839-IX introduces harsher punishments for servicemen under martial law for acts of disobedience, failure to comply with an order, threats or violence against a superior, voluntary abandonment of a military unit or place of service, desertion, voluntary abandonment in conditions of martial law or a combat situation battlefield or refusal to act with weapons. For instance, the amendments prohibit courts from imposing reduced sentences to soldiers found guilty, which is established in article 69 of the Criminal Code. This means that the court cannot apply mitigating circumstances under martial law and sentence a lenient punishment than what has been prescribed by the law or discharge a person from punishment for invasion. In addition, the amendment of article 75 of the Criminal Code prohibits the act of serving a sentence with probation where servicemen have committed criminal offences under martial law.

4. For some crimes, the upper limit of punishment has also been increased with the new law. For instance, the new law proposes to punish failure to comply with an order (if it causes serious consequences) with a criminal penalty of imprisonment for a term of five to eight years. Before these changes came into effect, the maximum punishment was limited to a term of three to seven years. However, the punishment for administrative military offenses have also increased. The draft law was adopted without public discussion and it was justified by the martial law and the need to strengthen disciplinary measures.
5. Legislations governing the criminal liability of military evaders and deserters during martial law are provided in chapter 19 of the criminal code.

### *Legislation on illegal border crossing*

6. Regarding legislations governing the illegal border crossing out of Ukraine under the martial law, the interlocutor stated that only the resolution 57 of the Cabinet of Ministers is applicable. Illegal border crossing may constitute a crime of evading mobilisation in case a person received a mobilisation order, underwent a medical examination and illegally crossed the border (art. 336 of Criminal Code). In addition, illegal border crossing may compose an administrative offense, if a person violated the rules of military registration (art. 210 or 210-1 in the Code of Ukraine on Administrative Offenses).
7. Other articles governing the punishment of illegal border crossing may include article 202, 204-1 of the Code of Ukraine on Administrative Offenses, if it is a violation of the border regime or the regime in Ukrainian state border checkpoints.
8. If a person received a summon with a demand to appear at a military unit and decided to evade military service by crossing the border, article 336 will govern the criminal offence.
9. The following articles of the criminal code, including 358 – forging of documents; 369 – benefit for official; 366 – official forging; 332 – illegal movement of persons are also applicable during martial law even though it is not explicitly stated in the articles.
10. Restriction of freedom is a punishment that occurs when a person is kept in open-type penal institutions without isolation from society. It is applied to persons who have reached the age of 18.
11. If a person crosses the border based on illegal grounds it can be an administrative offence or a criminal offence. If a person has a mobilisation order and crossed the border, the person is punished according to the criminal code.
12. Article 332 covers the illegal movement of persons across the state border of Ukraine, and the punishment applies to the person who organises the illegal transportation of persons across border. Therefore, this article does not apply to the victims of organised smuggling. Victims of organised smuggling are not subject to punishment, unless they are involved in a separate component of crime, such as forgery of documents.

### *Enforcement of the law*

13. There is no statistics on the enforcement of punishment of military evaders and deserters. New verdicts appear in the state register of court decisions. Statistics may likely be published after the end of the invasion.
14. According to the interlocutor of Legal Hundred, the extent to which the legislation is enforced depends on the violation and the specific case. Nevertheless, generally crimes committed during martial law or in a combat environment is punished stricter compared to peacetimes. However, it is the opinion of Legal Hundred that a light punishment has been enforced under martial law. The

reason is that the courts take into account the desire and possibility to continue the service in the future and try to balance the purpose of punishment with the interests of the defence. However, this procedure may have changed with the adoption of law 8271. Now it is too early to draw any conclusions regarding the implementation of the new law, since the judicial practice has not yet been formed.

15. Voluntary abandonment of a military unit or place of service, as well as non-appearance on time for duty without valid reasons by a serviceman, committed under martial law or in a combat situation, shall be punished by imprisonment for a term of five to ten years. Desertion under martial law or in a combat situation shall be punishable by imprisonment for a term of five to twelve years
16. If there is suspicion of evasion or desertion, the commander of the person may inform the higher command, and subsequently an investigation of a crime will start. The State Bureau for Investigation is responsible for handling military crimes, including evasion and desertion under martial law.
17. Legal Hundred was not aware of additional consequences pertaining to desertion and evasion from military service during martial law, besides the disciplinary measure of dismissal from military service if a serviceman is sentenced to imprisonment. The interlocutor expressed that deserters and evaders might be subject to negative attitudes from the society. However, due to the small number of returning evaders and deserters it is difficult to establish the prevalence of societal consequences.
18. According to the interlocutor of Legal Hundred, no family members or relatives of convicted evaders and deserters are subject to sanctions because of the principle of individual punishment.
19. Regarding treatment of persons returning to Ukraine after having crossed the border illegally, the Legal Hundred interlocutor opined that there might be some social condemnation. However, this is not demonstrated presumably due to the small number of returnees.
20. The interlocutor could not establish whether a deserter is punished lighter if he returns to his unit, from which he deserted as such information is not publicly available.
21. Deserters might keep in special departments for law enforcement and military personnel within the ordinary prisons. For certain crimes, the court can impose an alternative punishment; either a disciplinary battalion or imprisonment (for example, such an alternative can be applied for voluntarily leaving the place of service in peacetime in accordance with Article 407 of the Criminal Code). Punishment in the form of detention in a disciplinary battalion is imposed on conscripts, servicemen undergoing military service under a contract, officers undergoing personnel military service, officers undergoing military service upon conscription, servicemen called up for military service during mobilization, for a special period, and to servicemen called up for military service by conscription of reservists in a special period (except for female servicemen), for a period of six months to two years. Also, the court can replace deprivation of liberty for a term of no more than two years with detention in a disciplinary battalion for the same term. Detention in disciplinary battalion of servicemen instead of imprisonment cannot be applied to persons who have previously served prison sentences (art. 62 of Criminal Code).

## International organisation based in Ukraine

Online meeting, 13 March 2023

### *Legislation and practice regarding draft evasion and desertion*

1. The interlocutor of the international organisation referred to an analysis of OHCHR regarding the travel ban in a publicly available report covering the human rights situation from 24 February until 15 May 2022.<sup>372</sup> Although the report was published almost one year ago, the interlocutor stressed that the conclusions are still relevant up to today – also despite the fact that some categories of persons have been added to the eligibility list for exiting Ukraine.
2. Article 336 in the Criminal Code of Ukraine is applicable for individuals prosecuted for draft evasion. It is not the practice that every man liable for military service who fails to appear at the military draft commission will be immediately subjected to prosecution for draft evasion. Article 336 applies only to persons who have passed the medical examination by the draft commission. In practice, a person will receive a first summons with a notice to undergo medical examination at the draft commission, and subsequently the medical commission determines the fitness for military service. If the person is declared fit for military service, has undergone medical examination and fails to appear at the military draft commission at the specific date provided in the summoning letter, the person will face the risk of prosecution, according to article 336. The conviction can be imprisonment for a term of up to 3-5 years.
3. Article 335 of the criminal code establishes same criminal liability for commanders only.
4. Article 336/1 of the criminal code is reserved for individuals working in the civil protection service or persons working for the State Emergency Service of Ukraine, specifically.
5. Draft evasion is by law punishable with imprisonment for a term of 3-5 years, but to the best of interlocutor's knowledge, in practice courts often deliver suspended prison sentences ranging from 1 to 3 years. If the defendant breaches the terms of the suspended sentence or commits another offence, it can have severe consequences for the defendant who may serve the full period of the suspended sentence in prison.
6. According to the law, a suspended sentence does not prevent a defendant from being summoned again. However, the interlocutor of the international organisation did not have information about defendants being recalled by the army during the period of suspension.
7. Article 408 in the criminal code applies to the criminal offence of desertion. During peacetime desertion is punishable with imprisonment for a term of 2-5 years. During time of war or martial law, the punishment is imprisonment for a period up to 5-12 years. Hence, the sentence is more severe due to the fact that they are already serving in the military.
8. On 13 December 2022, the Verkhovna Rada enacted the Law No. 2839 "On Amendments to the Code of Ukraine on Administrative Offenses and the Criminal Code of Ukraine" aimed at improving the military discipline and law and order during military service under martial law. The law entered into force on 27 January 2023. The adoption of the amendments precludes courts from releasing from custody the defendants who are prosecuted for desertion from detention. Consequently, persons who are charged for desertion will be detained until the sentence has been passed. In addition, persons who are convicted under article 408 cannot have their sentence suspended and

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<sup>372</sup> UN OHCHR, Situation Of Human Rights In Ukraine In The Context Of The Armed Attack By The Russian Federation 24 February — 15 May 2022, 29 June 2022, [https://www.ecoi.net/en/file/local/2075439/22-06-28\\_OHCHR\\_Thematic\\_Report\\_Ukraine\\_ENG.pdf](https://www.ecoi.net/en/file/local/2075439/22-06-28_OHCHR_Thematic_Report_Ukraine_ENG.pdf)

they cannot be given a more lenient sentence than prescribed by the law. Prior the adoption of the amendment, article 69 of the Criminal Code allowed courts to impose lenient prison sentences, depending on individual circumstances. However, these amendments will apply only to those individuals who committed acts of desertion after 27 January. Up to the date of this interview, there were no known court practice concerning the implementation of the new law.

9. To the best of the interlocutor's knowledge, the amendments were introduced without any general public debate, as public debates regarding legislation in Ukraine are usually not common. In addition, the interlocutor did not know whether the previous legislation regarding evasion constituted a problem. However, it is likely that the court practices have triggered criticism by the military based on the opinion that military evaders and deserters convicted after 24 February 2022 could receive milder sentences than originally prescribed in the law. The interlocutor highlighted that, according to the database of verdicts, there were few occasions where men deserting after 24 February 2022 were given sentences within the range prescribed by relevant articles of the Criminal Code of Ukraine, as it was the court practice to either give a suspended sentence or sentence with a shorter prison term than prescribed by the law on the basis of Article 69. For instance, pursuant to article 408, desertion is punishable by a prison term of 5- 12 years and in the majority of the court cases known to interlocutor that were published in the period of 24 February 2022 until 27 January 2023 the judges were giving suspended sentences to the defendants, according to article 69 of the criminal code. The amendment enforces courts to give sentences that are in congruence with the law and preclude courts from suspending or lowering the prison terms.
10. Article 407 in the criminal code concerns unauthorized absence without leave from a military unit or place of service. Compared with desertion, this article concerns the absence of a military serviceman from his military unit for a limited period of time lasting from few weeks until a month. The criminal offence of unauthorized absence is punishable by imprisonment for a term of 5 – 10 years when it happens during martial law. Desertion differs from unauthorized leave based on the assumption that the military serviceman left his unit without an intention to return, whereas unauthorized absence entails that the serviceman was missing for a period before returning. The interlocutor did not have any knowledge about the maximum period of time of which a serviceman is allowed to be absent without facing prosecution, although it is assumed that a serviceman is allowed to be absent from his military unit for a period of three days without legal sanctions.
11. Military evaders, who are sentenced with a prison term, are likely to serve their sentences in ordinary prison facilities. Those convicted for unauthorized leave and desertion would most likely not be imprisoned in ordinary prison facilities due to the fact that they are military servants.

### *Additional legislations regarding illegal border crossing*

12. Pursuant to article 204-1 of the Code of Ukraine on Administrative Offenses, illegal border crossing or attempts to cross the border illegally out of Ukraine, both outside a Ukrainian border-crossing point (BCP) or at a BCP, is subject to administrative liability entailing a fine amounting to 100 untaxed minimal personal incomes or correctional labour for a period of up to one month with a deduction of 20 % of earnings, or administrative arrest for up to 15 days.
13. Article 332 of the Criminal Code criminalises the illegal movement of persons across the state border of Ukraine with the punishment of three to five years in prison. If a group commits same actions, the prison term is seven to nine years. The article does not penalise persons who have been subjected to the movement across border but only the organisers of human smuggling. For



instance, the article is applicable to those using their vehicle or van to transport people across the border.

14. The interlocutor did not have information regarding the treatment of persons who have been subjected to organised human smuggling, since it is not part of their mandate.

### *Other consequences for deserters and evaders*

15. Convicted military evaders and deserters may face additional societal consequences, including social stigmatisation. In general, desertion has a negative connotation compared with evasion, and consequently, deserters may face severe societal consequences compared to evaders. In addition, the conviction of evaders and deserters entail the criminal record of the person concerned that could affect the possibility to be hired in positions in the public administration. Moreover, during a suspension period, it is difficult for the convicted person to obtain a passport for travelling abroad, which may restrict the possibility of leaving Ukraine, even if the travel ban were lifted.
16. Ukrainian men who live abroad, who have managed to leave Ukraine legally or illegally, are likely to face additional consequences in situations where they are under investigation or added to a wanted listed. The interlocutor was of the opinion that, based on cooperation between Ukraine and EU member states, under certain circumstances Ukrainian citizens living abroad could potentially be extradited to Ukraine within the framework of the 1957 European Convention on Extradition. Although the interlocutor has not come across such information, it was believed that Ukrainians staying abroad might face such consequences if there is, for example, a verdict against them.
17. The interlocutor did not have any knowledge if relatives of military evaders and deserters face sanctions. Nevertheless, based on assumptions, there may exist controversies in smaller settlements or villages between persons who for instance lost relatives in the war and persons convicted for desertion. Such controversies are unlikely to occur in big towns and cities.

### *Mobilisation / conscription*

18. It has been observed in big cities that men in the conscription age are being apprehended on the street by the military. The draft commissions have mobile points with the main task of handling the summons, and there are reports of forced conscription where men are coerced to undergo medical examinations.
19. There are reports concerning incidences where officials from draft commissions apply excessive and physical force to conscript men, but to the best of the interlocutor's knowledge, it is not a pattern that is common for the whole country or for all members of the draft commissions.

### *Travel regulations and border crossing practices*

20. The government of Ukraine has a leeway to restrict freedom of movement of individuals. It is the assessment of the international organisation of this interview that the martial law does not provide a clear justification for the travel ban applicable for the majority of the male population. Because of the lack of justification of the government regulations concerning the travel ban, it is difficult to determine whether such measures are necessary to maintain service in the army.
21. According to the knowledge of the international organisation, there is inconsistency between the aims and means of the travel ban. For example, the travel ban applies to the majority of the male population, even those who are exempted from serving in the military armed forces. Hence, a person who has the legitimate ground for not serving in the army is restricted from leaving Ukraine.

Another example pertains to the situation of students enrolled at foreign universities who were allowed to exit until the end of summer and all of a sudden, the State Border Guard Service (SBGS) changed the practice and prohibited students from travelling abroad. According to the interlocutor, the example points to the lack of consistency in the application of the exit regulations.

22. The interlocutor found it hard to determine if some BCPs are more lenient or more corrupt compared to others, as the organisation does not monitor the BCPs. However, the final decision of granting permission to cross the border is exclusively the decision of the SBGS and therefore there could be situations where certain documents would not be accepted at one BCP but be accepted without scrutiny at another BCP resulting in different implementation of the travel regulations.
23. The international organisation has received letters from persons who were rejected at the BCP, even though they believed to be in possession of the documentation enabling them to lawfully cross the border out of Ukraine. The interlocutor cannot assist the persons other than advising them to seek legal assistance.
24. There are reports of people who were denied exit and have brought the case to the court. However, it is uncertain whether the court cases resulted in alteration of the practice, as the international organisation did not specifically monitor these developments.

## A non-Ukrainian Organisation working in Ukraine

Online meeting, 9 February 2023

### *Legislation*

#### *On declaration of war/martial law*

1. Article 106 of the Constitution of Ukraine provides for the President of Ukraine to declare general or partial mobilisation and the introduction of martial law. The Verkhovna Rada of Ukraine must approve the declaration, according to Article 85 of the Constitution of Ukraine.
2. The Law of Ukraine "On the Legal Regime of Martial Law", which defines martial law as a special legal regime, regulates the procedures regarding martial law. Martial law can be introduced in the whole or in parts of Ukraine in the event of armed aggression or threat of attack, danger to the state independence of Ukraine or its territorial integrity. It provides for the provision of appropriate state authorities, military command, military administrations and local self-government bodies powers.
3. Decree no. 64 of the President of Ukraine became effective and introduced martial law from 05:30 on 24 February 2022 for a period of 30 days and has subsequently been extended several times and approved by Verkhovna Rada.
4. The President signed the Decree No. 65 "On General Mobilisation" 24 February 2022, which declared mobilisation of men aged 18 to 60. The terms of the general mobilisation were extended several times.

#### *On military service during martial law*

5. According to Article 65 of the Constitution of Ukraine and Article 1 of the Law of Ukraine "On Military Duty and Military Service", it is the duty of the citizens of Ukraine to protect the country.
6. The Law of Ukraine "On Mobilisation Training and Mobilisation" (Law on Mobilisation) defines the framework in case of a partial or full mobilisation. Article 23 in the law establishes the range of persons who are not subject to conscription for military service during mobilisation. Among the categories of persons are people occupied in some state institutions and self-government; persons with approved categories of disabilities or unfitness; women and men with three and more children; or who independently raises a child or with a child with either disability or serious illness etc.
7. According to the same article, there are also categories of persons who are temporarily not subject to conscription for military service during mobilisation. The categories of persons are among others, students; scientific personnel; women and men whose close relatives died or went missing in the anti-terrorist operation etc.
8. The law of Ukraine "On Military Duty and Military Service" provides the legal regulations of the citizens' duties regarding military service. The law distinguishes between the concepts of "removal from military registration" and "exclusion from military registration", where the 'removal' refers to a temporary measure whereas 'exclusion' is permanent. The list of categories who are excluded and removed from military registration is listed in article 37 of the 'Law of Ukraine on Military Duty and Military Service'. The law also distinguishes between the grounds for removal and exclusion from military registration.

### *On exclusion from military service*

9. Ukrainian citizens who are subject to exclusion from military registration are persons who:
  - are recognised by the military medical commissions as unfit for military service with exclusion from military registration;
  - have reached the maximum age of being in the reserve;
  - terminated Ukrainian citizenship;
  - were previously sentenced to imprisonment for committing a serious or particularly serious crime;
  - were sentenced to psychological institutions or who have been applied coercive measures of a medical nature.

### *On exit rules for Ukrainian citizens during martial law*

10. The issue of the departure of Ukrainian citizens abroad is regulated by the Law of Ukraine "On the Procedure for Exiting/Entering the territory of Ukraine by Ukrainian Citizens". In accordance with this Law, documents entitling a citizen of Ukraine to exit/enter Ukraine are:
  - passport of a citizen of Ukraine to travel abroad;
  - diplomatic passport of Ukraine;
  - service passport of Ukraine; sailor's identity card;
  - crew member's certificate;
  - identity card for return to Ukraine.
11. The procedure for crossing the state border by citizens of Ukraine is regulated by the Rules for Crossing the State Border of Ukraine, approved by Resolution No. 57 of the Cabinet of Ministers of Ukraine of 27 January 1995. The resolution was adopted in a time under different circumstances that did not correspond to the situation after 24 February 2022. This is why the rules were amended several times after the onset of Russian invasion on 24 February 2022.
12. In addition to the categories who are entitled to exit Ukraine, the Resolution No. 57 also defines the list of documents required to cross the border. In the cases defined by the law, in addition to passport documents, citizens must present supporting documents to prove their eligibility to exit Ukraine.
13. The rules establish that in the event of the introduction of martial law on the territory of Ukraine, the following persons have the right to cross the state border:
  - persons with disabilities with a certificate confirming the relevant status, or a pension certificate or a certificate confirming the appointment of social assistance in accordance with the Laws of Ukraine, which indicate the group and cause of disability, or certificates for receiving benefits by persons with disabilities who are not entitled to pension or social assistance, according to the form approved by the Ministry of Social Policy;
  - persons who have a wife (husband) with disabilities and accompany such a wife (husband) to travel outside of Ukraine, with the documents (their notarized copies) confirming family ties and disability;
  - persons who have one of their parents or spouse's parents with disabilities of group I or II and accompany one of such parents to travel outside Ukraine, in the presence of documents (their notarized copies) confirming family ties, marriage, disability, as well as documents confirming cohabitation, or taking care of one's parents or the parents of the wife (husband), which is confirmed by an act of establishing the fact of taking care of one of their parents or the parents

of the wife (husband), or documents (certificates) on receiving compensation (benefits, allowances) for care;

- persons who provide permanent care for persons with disabilities of group I or II and accompany such persons to travel outside Ukraine, in the presence of documents (certificates) on receipt of compensation (benefits, allowances) for care or documents confirming disability, and the act of establishing the fact of providing care;
- parents, guardians, custodians, adoptive parents, foster parents who are raising a child with a disability under the age of 18, in the presence of a child's birth certificate or documents confirming the relevant authority of a person accompanying a child with a disability (in the case of being accompanied by a guardian, one or both adoptive parents, foster parents), a certificate confirming the appointment of social assistance, which specifies the status of "child with a disability", or a certificate of receipt of state social assistance for children with a disability;
- parents who have dependent adult child with a disability of group I or II, in the presence of his birth certificate and documents confirming the disability (notarized copies);
- grandmothers, grandfathers, adult brothers, sisters, stepmothers, stepfathers who accompany children with disabilities to travel outside of Ukraine, in the case of their belonging to the category of persons who are not subject to conscription for military service during mobilisation, provided they have the appropriate supporting documents and documents confirming family ties (their notarized copies);
- persons who need constant care - accompanied by one of the family members of the first degree of consanguinity, in the presence of documents confirming family ties, and the conclusion of the medical advisory commission of the health care institution about the need for constant external care or accompaniment of a person, who provides permanent care for the specified persons, in the presence of documents (certificates) on receipt of compensation (benefits, allowances) for care or a conclusion of the medical advisory commission of a health care institution on the need for permanent external care and an act of establishing the fact of providing care;
- guardians of persons with disabilities, recognized by the court as incapable, who accompany such persons to leave Ukraine, in the presence of a decision on the appointment of a guardian for such a person; and in the case when a guardian has not been appointed for such a person, – one of the adult family members of the first or second degree of consanguinity in the presence of documents confirming family ties, disability (their notarized copies);
- Male citizens of Ukraine between the ages of 18 and 60 may travel outside of Ukraine independently based on a certificate confirming that such persons with disabilities, children with disabilities, persons in need of constant care, or children are registered at the consulates, documents (their notarized copies) giving the right to leave;
- Male citizens of Ukraine between the ages of 18 and 60 who accompanied persons with disabilities, children with disabilities, persons in need of constant care, or children to travel outside of Ukraine must return to Ukraine no later than the return of the persons to the territory of Ukraine, whom they accompanied;
- A mother and/or father, guardian, custodian, one or by both adoptive parents, foster parents can accompany children suffering from the approved type of diseases in the presence of a certificate of receipt of state aid for a child suffering from certain diseases, or a document issued by the medical advisory commission of a health care institution, as well as documents confirming family ties (in the case of accompaniment by the mother and/or father), or documents confirming the relevant authority of the person accompanying such a child (in the case of accompaniment by a guardian, custodian, one or both adoptive parents, foster parents);

- The decision to grant permission to leave Ukraine to a male person accompanying a child who has not reached the age of 16 shall be made taking into account the accompanying person's inclusion in the list of categories of persons exempted from military service and mobilisation, if s/he has supporting documents;
  - persons from the defence and security forces, injured in connection with the military aggression of the Russian Federation against Ukraine, for treatment abroad in the presence of a passport of a citizen of Ukraine to travel abroad or a passport of a citizen of Ukraine (in their absence - documents containing information about the person, on the basis of which the State Border Guard Service will allow the crossing of the state border) and in the presence of a conclusion on the need to send a person from the defence or security forces injured in connection with the military aggression of the Russian Federation against Ukraine, for treatment abroad and a letter from the Ministry of Health on the agreed with a foreign party list of persons from the defence forces and security forces, injured in connection with the military aggression of the Russian Federation against Ukraine, who can be accepted by health care institutions of foreign countries for treatment abroad;
  - drivers carrying out the transportation of medical cargo, humanitarian aid by road vehicles for the needs of the Armed Forces, other military formations formed in accordance with the laws of Ukraine, as well as the population of Ukraine, across the state border in the presence of relevant decisions on leaving Ukraine, compliance with the rules for crossing the state border of Ukraine, and if there is information about the person in the relevant information system, the administrator of which is Ukrtransbezpeka (State Transportation Safety Service);
  - drivers of vehicles of business entities that have a license to carry out economic activities in the international transportation of goods and passengers by road transport, subject to compliance with the rules for crossing the state border of Ukraine and if there is information about the person in the relevant information system, the administrator of which is Ukrtransbezpeka
  - employees of railway transport enterprises, which ensure the functioning and uninterrupted operation of the railway, across the state border in the presence of relevant decisions on departure from the borders of Ukraine and compliance with the rules for crossing the state border of Ukraine
  - athletes can cross the state border subject to the availability of relevant supporting documents and compliance with the rules for crossing the state border of Ukraine
  - male citizens of Ukraine aged 18 to 60 have the right to cross the state border of Ukraine if they are on their way to work on sea vessels, inland navigation vessels as part of the crews of such vessels or to undergo practical training on vessels
  - aviation personnel, state inspectors for aviation supervision or persons authorized to conduct inspections of the State Aviation Service, and employees of the State Aviation Enterprise "Ukraine", if they are going to work (perform official duties) abroad or for simulator training, subject to compliance with the rules for crossing the state border of Ukraine, availability of supporting documents
14. The following categories are exempted from military service but do not have the right to cross the state border during martial law:
- students of professional (vocational and technical), professional pre-higher and higher education, trainee assistants, graduate and doctoral students studying full-time or dual forms of education;

- scientific and scientific-pedagogical employees of institutions of higher and vocational pre-university education, scientific institutions and organizations who have an academic title and/or scientific degree, and pedagogical employees of professional (vocational-technical) education institutions, general secondary education institutions, provided that they work in institutions of higher or professional higher education, scientific institutions and organizations, institutions of professional (vocational and technical) or general secondary education as the main place of work by at least 0.75 salary rate;
- women and men whose close relatives (husband, wife, son, daughter, father, mother, grandfather, grandmother or biological (consanguineous, non-consanguineous) brother or sister) died or went missing during an anti-terrorist operation;
- women and men whose close relatives (husband, wife, son, daughter, father, mother, grandfather, grandmother or biological (consanguineous, non-consanguineous) brother or sister) died or went missing during the implementation of measures to ensure national security and defence, resistance and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, as well as during the provision of national security and defence, repelling and deterring armed aggression against Ukraine during martial law.

## *Documents*

### *Military documents for persons, released from military service/mobilisation*

15. The procedure for documents issued to conscripts and reservists are regulated in the Ukrainian Cabinet of Ministers' Resolution No. 1487 from 30 December 2022 (entered into force on 5 January 2023) "Procedure for Organizing and Maintaining Military Records of Conscripts, Reservists". According to the resolution, the issued documents for the following categories are:
  - Conscripts – a certificate of registration at the conscription station;
  - Persons bound for military service – a military ticket or a temporary certificate of a conscript;
  - Reservists – a military ticket
16. The Order No. 206 from 10 April 2017 of the Ministry of Defence states that line 15 of the military ticket of unranked, sergeants and master-sergeant servicemen provides for the information that the citizen of Ukraine has been recognized by the conscription (medical) commission as unfit for military service with removal from military registration. Line 16 of the military ticket provides for the information that a citizen of Ukraine is excluded from military registration after reaching the maximum age of being in the reserve.
17. The Order No. 610 from 21 November 2017 from the Ministry of Defence states that line 13 of a temporary certificate of a conscript gives the information whether a conscript is included in or removed from the military register. In line 14, information on the exclusion from the military register and the grounds for exclusion is provided.

## *Systems for verifying documents*

### *Shliakh*

18. At border crossing points, the SBGS uses, among other systems related to border crossing, the system "Shliakh" [Шлях] that is administered by the State Service of Transport Safety. The system has been in use since March 2022. "Shliakh" enables the authorities to enter the data and hold the



records of male drivers of conscription age, who are allowed to cross the border, primarily for transport of military and medical equipment or humanitarian aid. The military or medical authorities submit the request to the Ministry of Infrastructure after which the information are forwarded to the SBGS for approval, and subsequently SBGS can allow the driver to cross the border.

19. The “Shliakh” system is intended for obtaining permission for transportation during martial law in the following cases:
  - internal transportation of passengers by buses;
  - domestic transportation of dangerous goods and hazardous waste by trucks;
  - international transportation of passengers by bus;
  - international transportation of dangerous goods and hazardous waste by trucks;
  - international transportation of goods by trucks (except transportation of dangerous goods and hazardous waste).
20. There has not been a regulation of the “Shliakh” system since March 2022. On 5 February 2023, the government put forward a draft legislation, which is still pending. The details of the proposal are expanded in a report from October 2022 by the National Agency for Corruption Prevention of (NACP). A version of the document has been published, but it was a very preliminary draft, and upon public consideration and further discussion among state institutions, it is expected that the draft would be considerably modified.

## *Diia*

21. The system “Diia” [Дія] is a digital interaction application between the Ukrainian authorities and the citizens. However, “Diia” is not used at the border crossing points (BCPs), since it is not a validation tool for identity documents. However, it can be used to identify a Ukrainian citizen entering Ukraine if there are no other means to validate the identification of that person, for instance lack of identity documents. Furthermore, “Diia” cannot be used in the temporary occupied territories.
22. There are plans about integrating information from the military administrations in the “Diia” database, allowing border guards to receive military documentation through the application. However, it has not been implemented to this date.

## Situation at the borders

23. On 23 March a new law came into force (the Law on Amending Some Laws of Ukraine on Protection of the State Border of Ukraine of 24 February 2023), introducing changes to the Law on Border Control. According to the changes introduced, in case of humanitarian reasons, to ensure protection of national interests or in connection with performance of international obligations, the foreigners, stateless persons or citizens of Ukraine, that do not comply with one or more conditions for crossing the state border of Ukraine, may be allowed to cross the state border by the decision of the Head of the SBGS or the acting Head of SBGS.

## Prevalence of fraud / illegally obtained documents

24. An article citing a SBGS spokesperson who highlighted that since the onset of the full-scale invasion 20 – 40 persons have tried to cross the border illegally on daily basis, 3,900 persons have been

detained following attempts to cross the border with falsified documents and 9,200 have been detained in attempts to cross the border beyond the formal BCP.

25. For more detailed information about the schemes used by men to aged 18 – 60 to circumvent the travel bans and avoid mobilisation, the below-mentioned study “Corruption Schemes and risks related to leaving the country during martial law” from the National Agency on Corruption Prevention in Ukraine.<sup>373</sup>

## Corruption

26. The NACP study describes a list of eight identified illegal schemes of "circumventing" the ban on exiting Ukraine by conscript men under martial law since 24 February 2022. Some of the schemes regards corruption risks, while others are a result of illegal actions or significant shortcomings in the system of control over the crossing of the state border.

### **Scheme 1: Illegal border crossing**

27. The NACP identified four methods of illegal border crossing:
- i) Crossing outside the border crossing points (BCP) and checkpoints without passing authorized officials of SBGS' unit;
  - ii) Crossing the border with the use of a passport of a foreign country;
  - iii) Crossing at BCPs and control points with the assistance of officials of the SBGS without carrying out mandatory border control procedures;
  - iv) Crossing the contact line to occupied territories with subsequent travel abroad through the temporarily occupied territory of the Autonomous Republic of Crimea and the territory of the Russian Federation.

### **Scheme 2: Fraudulent removal from the military register**

28. The NACP identified two methods of using false documents to remove the person from the military register, which would allow the person to cross the border.
- i) Usage of military ticket with notes on the removal from the military register;
  - ii) Usage of military medical commission certificates stating unfitness for military service with subsequent exclusion from military registration.

### **Scheme 3: Fraudulent status as student**

29. This method consists of using a falsified documents that declare that a person is a student of pre-high or higher educational institution. This method was more prevalent in the first month after the Russian full-scale invasion, until the Ukrainian government changed the policies so students could not leave the country.

### **Scheme 4: Fraudulent parent of many children**

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<sup>373</sup> National Agency on Corruption Prevention of Ukraine, Corruption schemes and risks related to leaving the country during martial law, October 2022, <https://nazk.gov.ua/wp-content/uploads/2022/10/Koruptsiy-ni-shemy-ta-ryzyky-pid-chas-vyi-zdu-z-Ukrai-ny-v-umovah.pdf>

30. This method consists of using falsified birth certificates or other documents so it would look like that the person would have three or more children.

**Scheme 5: Fraudulent medical treatment or rehabilitation abroad**

31. This method comprises of using falsified medical certificates or other documents allowing the person to cross the border on false presuppositions.

**Scheme 6: Fraudulent letter**

32. The method involves using letters addressed to the SBGS from another state authority that gives the person the permission to cross the state border.

**Scheme 7: Usage of Shliakh-system for military, medical or humanitarian transport**

33. This method suggests that a person would be registered as a driver of medical equipment, humanitarian aid cargo for the needs of the Armed Forces of Ukraine, other military formations with false intentions to deliver such cargo. The real purpose would be private interests (e.g. taking family members abroad, visiting family abroad, purchasing foreign vehicles abroad, ordinary business trips etc.).

**Scheme 8: Usage of Shliakh-system for "second-driver"**

- 34. The final method that was identified by the NACP consists of the risk of a second person registered as a driver of a business entity with a license to carry out international transportation of goods and passengers by road transport. The two drivers cross the border and when the vehicle returns to Ukraine, there is only one driver.**

35. The study also identified seven typical risks for male conscripts of the age from 18-60 years to illegally cross the border:

- i. Abuse of official position, solicitation and receipt by officials of the Ministry of Infrastructure or Regional Military Administrations of illegal benefits when making a decision on the departure of such conscripts as drivers of humanitarian and other cargoes outside of Ukraine, using the information system "Shliakh" or making such decisions in conditions of conflict of interests.

Abuse of their powers by persons authorized to perform the functions of the state or local self-government bodies, or taking actions in conditions of a real conflict of interests with the aim of assisting conscripted men to leave Ukraine under the humanitarian cargo driver scheme.

Obtaining an unlawful benefit by an official of a charitable foundation, public organization, and other legal entity under private law for assisting a conscripted man in "confirmation of volunteer status" for his departure abroad as a driver of humanitarian cargo using the "Shliakh" information system.

- ii. Obtaining an illegal benefit by an official of a business entity that has a license to carry out economic activities of international transportation of passengers by road transport, for assisting in the departure of a conscripted man outside Ukraine as a bus driver using the "Shliakh" information system.

- iii. Abuse, satisfaction of private interests by officials of state bodies in connection with sending letters to the Administration of the State Border Guard Service with a request to grant permission to leave Ukraine to conscript men who are not reserved for the period of mobilisation and wartime.
- iv. Abuse of official position and receipt of illegal benefits by officials of the State Border Guard Service from conscripts:
  - a. facilitating the illegal crossing of the state border of Ukraine outside the official BCP, in particular, by providing information about the location of border guards or not entering information about crossing the border into the relevant databases;
  - b. assistance in crossing the state border of Ukraine, in particular with the use of forged documents with notes on removal from military register or unfitness for military service; documents that do not provide grounds for traveling abroad, for example, certificates and letters about the need for treatment or rehabilitation in a foreign medical institution for persons who do not belong to the defence and security forces, as well as letters about assistance from state authorities.
- v. Abuse of influence, extortion and receiving of undue benefits by servicemen of territorial recruitment and social support centres for registering, assisting in issuing or forging military registration and other documents that grant men aged 18 to 60 the right to leave abroad. Abuse, extortion and receiving of unlawful benefits by doctors of the military medical commissions for drawing up conclusions on temporary unfitness for military service due to health or unfitness for military service with exclusion from military registration.
- vi. Abuse of official position, influence, demanding and receiving an unlawful demand in the interests of oneself or third parties by officials of military administrations, local self-government bodies, heads and members of medical and social expert commissions, as well as officials and doctors of medical institutions for issuing forged documents, in particular, of certificate to the medical commission inspection report on the assignment of a disability group for conscripts.
- vii. Abuse, extortion and receipt of unlawful demands in the interests of themselves or third parties by officials of military administrations for granting unhindered permission to leave to the temporarily occupied territory of Ukraine (crossing the "contact line").

## Punishment of deserters and those who evade military service

- 36. The Code of Ukraine on Administrative Offenses establishes administrative liability for violations of the legislation on defence, mobilisation training and mobilisation. In particular, part one of Article 210 regarding the violation of the legislation on defence, mobilisation training and mobilisation entails the imposition of a fine on citizens from one hundred to two hundred non-taxable minimum incomes of citizens.
- 37. Repeated within a year violation provided for in part one of the article 210, for which a person has already been subject to an administrative penalty, as well as committing such a violation during a special period, shall result in the imposition of a fine on citizens from two hundred to three hundred non-taxable minimum incomes of citizens.
- 38. The territorial centres of recruitment and social support consider cases of violations of the legislation on defence, mobilisation training and mobilisation.

39. The Criminal Code of Ukraine established criminal liability for evasion of military service and desertion.
40. According to Article 336, evasion of conscription for military service during mobilisation is punishable by imprisonment for a term of three to five years.
41. According to article 408, desertion, i.e. voluntarily leaving a military unit or place of service with the aim of evading military service, as well as failure to report for service for the same purpose in the event of assignment, transfer, from a business trip, leave or from a medical institution are punished by imprisonment for a term of two to five years. During a special period, the punishment is five to ten years' imprisonment and during martial law, the punishment is five to twelve years in prison.
42. Desertion with a weapon or by prior conspiracy by a group of persons is punishable by imprisonment for a term of five to ten years. During a special period, the punishment is five to ten years' imprisonment, and during martial law the punishment is five to twelve years in prison.
43. The pre-trial investigation of criminal offenses provided for by articles 336 and 208 of the Criminal Code of Ukraine is carried out by investigators of the National Police.

## Europe without Barriers

Written response, 11 April 2023

### Background information

*Europe without Barriers (EWB) is a Ukrainian civic organization founded in 2009 and focusing on freedom of movement, document security, visa issuance, migration, and asylum. EWB's mission is to find a new proper balance between freedom of movement and security in aspiration to see Europe ridded of barriers with Ukraine being a part of Europe.*

*EWB is defined as a "hybrid organization" as it not only conducts (like a classic think tanks) policy analyses, monitoring, surveys and researches, but also performs a wide range of advocacy activities.*

### Women covered by the travel ban

1. On January 27, 2023, the Resolution of the Cabinet of Ministers of Ukraine No. 69 On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine was adopted. The new rules of departure concern the following 12 categories of officials, including women:

- 1) National deputies of Ukraine
- 2) Ministers\*
- 3) Prosecutors
- 4) Deputies of local councils
- 5) Heads of bodies and services established by the President of Ukraine\*
- 6) Heads of the Office of the President of Ukraine, the staff of the VRU, the Security Service of Ukraine, the National Bank of Ukraine, the secretary of the National Security and Defence Council\*
- 7) Heads of state unitary enterprises\*
- 8) Heads of central authorities\*
- 9) Heads of local administrations\*
- 10) Judges (including the Constitutional Court)
- 11) State Secretaries of Ministries and CMU
- 12) Heads of other state bodies\*
- 13) Heads and members of the Accounting Chamber, the Central Election Commission, the National Television Council, other state collegial bodies\*
- 14) Management of companies in which more than 50% are directly or indirectly owned by the state
- 15) Heads of structural subdivisions of state bodies and local self-government bodies
- 16) Other employees booked for the period of mobilization and wartime by the authorities.

\*including their deputies

The exceptions are:

- 1) business trip of an official (male and female)
- 2) departure of an official (male and female) who is a single parent and has a child (ren) under the age of 18 (including):
  - for the purpose of visiting such children who are outside Ukraine
  - to accompany such children to travel outside Ukraine.
- 3) departure for treatment abroad (male and female), provided that the appropriate letter from the Minister of Health of Ukraine is presented at the border.

Departure is allowed accompanied by one of the family members of the first degree of consanguinity. The specified wording does not exclude the possibility of accompanying such officials by relatives (parents, their husbands or wives, children of such persons, including adopted ones), who are legally subject to the restrictions established by CMU Resolution No. 69.

- 4) death abroad of relatives of the first or second degree of consanguinity.

In addition, female officials have the right to visit minor children, who are abroad, if they have the following documents:

- birth certificate of a minor child (ren),
- certified copy of the certificate or birth certificate of minor children,
- another document confirming that the woman has a minor child (ren).

The fact of the stay of a minor child (children) outside of Ukraine is confirmed as follows:

- in the register of the State Border Service there must be a note about the crossing of the state border by a child (ren),
- if there is no such mark in the registers, you must provide a certificate about the stay of the child (ren) on consular records in another country.

In addition, according to the last explanation, female civil servants can cross the border of Ukraine directly with their minor child (ren) without hindrance.

## Forgery of documents

2. According to the State Border Guard Service, at the beginning of martial law, 60-70 people were detained every day trying to cross the border illegally. Today, this indicator has decreased several times - up to 20 people per day. These statistics also include attempts to illegally cross the border at checkpoints, when citizens try to use forged documents, as well as those who follow through the so-called green section of the border, that is, outside the borders of the checkpoints, trying to cross the state borderline on foot.
3. In general, since the beginning of Russia's full-scale invasion of Ukraine, border guards have detained more than 11,000 border violators. They tried to leave outside the checkpoints. Another 4,000 tried to leave with forged documents. Most violators were detained at the border with Romania and Moldova, while the largest number of those who tried to illegally cross the border with forged documents were recorded at the border with Hungary and Poland<sup>374</sup>.
4. In general, since the beginning of the full-scale war, the activities of more than 140 illegal groups that organized illegal trips for those who want to leave the borders of Ukraine in an illegal way have been stopped. In addition, almost 2,400 criminal proceedings were initiated by law enforcement agencies.<sup>375</sup>
5. The three most common ways of obtaining forged documents include:  
Option #1. Issuance of the so-called "white ticket". This is the name of the certificate that contains the conclusion of the military medical commission and determines the unfitness of the man for military service. The average cost is \$1,400-\$2,300. It takes 1-7 days to produce documents. In fact, they offer a fake medical opinion of the military medical commission, produced retrospectively, which confirms the individual diagnosis, "taking into account the customer's medical history." In addition to drawing up such a conclusion, the person is promised to be removed from the military register, to produce a temporary certificate of conscript and a document from the medical institution where the man was allegedly treated.

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<sup>374</sup> <https://suspilne.media/407058-za-rik-prikordonniki-zatrimali-ponad-11-tisac-porusnikiv-kordonu-demcenko/>

<sup>375</sup> <https://suspilne.media/407058-za-rik-prikordonniki-zatrimali-ponad-11-tisac-porusnikiv-kordonu-demcenko/>



Option #2. Issuance of documents for the humanitarian cargo driver. The cost is \$1100-2000. They promise to make the documents in 1-3 days. It is offered to cross the border in the role of a volunteer driver who seems to be transporting rubber aid. Anyone willing to use this method will be registered as a "second driver" and added to the state system "Shlyah". It was created recently for border guards to make it more convenient for them to check drivers.

Option #3. Studying at a Polish high school (school for adults). They ask for \$1,400-\$2,200 for registration. They promise to prepare an invitation to study within a week.<sup>376</sup>

## Punishment for the forgery of documents and illegal border crossing

6. Punishment for illegal border crossing depends on the type of responsibility and the article under which responsibility is brought. It can be a fine, restriction of freedom or imprisonment. The specific type and amount of liability for illegal border crossing in wartime are provided for in the sanctions of the relevant articles of the Criminal Code of Ukraine or the Code of Ukraine on Administrative Offenses.
7. Illegal border crossing in wartime with forged documents entails the onset of criminal liability under Article 358 of the Criminal Code of Ukraine "Forgery of documents, seals, stamps and forms, sale or use of forged. Criminal liability under this article may arise if a person uses forged documents to cross the border (a forged passport stating that a man is 17 years old when he is actually 18 years old, forged conclusions of the Military Medical Commission on recognition of unfitness, etc.). The culprits may face a fine of up to 50 tax-free minimum incomes of citizens or arrest for a term of up to 6 months, or restriction of freedom for a term of up to 2 years.
8. For other attempts to cross the border (outside the border crossing points through the forest, river, in the trunk of the car, etc.), the presentation of someone else's document when crossing the border (including the passport of a woman, having changed clothes accordingly) will be subject to administrative responsibility, provided for in Article 204-1 of the Code of Ukraine on Administrative offense "Illegal crossing or attempted illegal crossing of the state border of Ukraine". The commission of this administrative offense is subject to a fine in the amount of 3,400 to 8,500 hryvnias or administrative arrest for up to 15 days, with confiscation of tools and means of committing the offense.
9. In all cases of illegal border crossing by men aged 18 to 60, regardless of the method, their actions may (if, based on the circumstances of the case and the available evidence, the pre-trial investigation body can prove in court that the illegal border crossing by a man of conscription age was committed precisely for the purpose of evading mobilization ) qualify under Article 336 of the Criminal Code of Ukraine "Evasion of conscription for military service during mobilization, for a special period, for military service upon conscription of reservists during a special period", which is punishable by imprisonment for a term of 3 to 5 years. Since today, most often illegal crossing is carried out precisely for the purpose of evading the draft.
10. In all cases of attempts to illegally cross the border by men aged 18 to 60, regardless of the method, their actions can be qualified under Article 336 of the Criminal Code of Ukraine "Evasion of conscription for military service during mobilization, for a special period, for military service upon conscription of persons with number of reservists in a special period", which is punishable by imprisonment for a term of 3 to 5 years. There is no separate liability for conscripts for attempting to cross the border illegally. Draft law No. 7268 has been registered in the Verkhovna Rada, which proposes to supplement the Criminal Code of Ukraine with a special article that will provide for criminal liability specifically for illegal border crossing (by any means) by conscripts during martial law. If it is accepted, the guilty will face a fine or imprisonment for a period of 3 to 5 years.

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<sup>376</sup> <https://suspilne.media/252041-aferra-na-uhilantah-ak-ukrainskim-colovikam-prodaut-dokumenti-dla-viizdu-za-kordon/>

## Women and military service

11. On 12/30/2022 by Resolution No. 1487, the Cabinet of Ministers of Ukraine adopted a new Procedure for military registration of conscripts and reservists. The government provided for the military registration of female doctors, the creation of the Unified State Register of Conscripts and some other updates. In the new order, it is stipulated that female doctors, nurses and pharmacists will be conscripted, that is, they must register for the military.
12. Last year, there were fierce discussions about the military registration of women and it was unclear who would mobilize whom and how to register them. This was taken into account and the categories were distinguished. Women of medical and pharmaceutical specialties are now subject to mandatory military registration - that is, those who have graduated from medical universities or pharmaceuticals. Other women who have a specialty related to the military can register at will. At the same time, the recruitment of women into the service must still be voluntary. Since 2014, not a single woman has been forcibly mobilized into the army.
13. Another change to the Procedure concerns female students receiving medical and pharmaceutical education. Now, 2 months before the end of their studies, universities must submit lists of such women to the territorial recruitment and social support centres. Previously, it was mandatory to do it in 3 months. After completion of training, such women are issued a temporary conscript certificate; they are entered in the Unified State Register of conscripts and reservists. Certificates are valid for 30 days. After receiving the certificate, a woman must appear with it at the military commissariat within 7 days to be registered for military registration.
14. Women who received a medical/pharmaceutical specialty before December 30, 2022 and were not on military registration can get a job without registration until 2026.
15. The same norms remain for employers, when a person could not be hired without military registration documents. In the case of women, doctors and pharmacists should not be required to have this document until 2026. Nevertheless, some employers require it.
16. Admission to military registration of women with other 14 specialties (in accordance with the Order of the Ministry of Defence of December 03, 2021 under N 1566/37188 On approval of the List of specialties and/or professions related to the relevant military registration specialties, after receiving which women are accepted into military the accounting of conscripts and the List of specialties and/or professions related to the relevant military accounting specialties) listed below have been postponed for a year until October 1, 2023. These are the following specialties:
  - chemistry, chemical technologies and engineering, biology;
  - telecommunications and radio engineering;
  - software engineering, computer science, information systems and technologies, computer engineering, system analysis, cyber security, micro- and nanosystem engineering, automation and computer-integrated technologies;
  - metrology and information-measuring technology;
  - earth sciences, geography, physics and astronomy;
  - food technology, technology of production and processing of animal husbandry products;
  - provision of troops, weapons and military equipment, technologies of light industry;
  - physical therapy, occupational therapy, medical and psychological rehabilitation, public health, physical rehabilitation, industrial pharmacy, sanitation and expertise;
  - stomatology, medicine, nursing, pharmacy, technologies of medical diagnosis and treatment;
  - biomedical engineering, biotechnology and bioengineering;
  - veterinary medicine, veterinary hygiene;

- accounting and taxation, marketing, management, entrepreneurship, economics, finance, banking and insurance;
  - publishing and printing;
  - psychology, social work, social welfare.
17. At the same time, on July 13, 2022, the Western Interregional Department of the Ministry of Justice published an expanded list of specialties. It is currently not approved, but that may change by October 1st, which is also currently under discussion. In addition to 14 specialties, the following specialties were added to the expanded list:
- aviation transport, aviation and space rocket technology;
  - railway transport;
  - fire security.
18. In order to be registered, you need to take a document about education to confirm your specialization and a workbook to confirm your current experience at the military commissariat. The question of how the specializations of professions will be determined remains debatable - by studying at a university, diploma education, or by work. There is no answer to this question in the normative legal acts themselves, so it is expected that in all cases it will be individual, which may lead to certain manipulations.
19. In addition, the law does not specify what women FOPs (individual-entrepreneurs) should do and whether they are obliged to register. Lawyers assume that it is necessary to submit FOP documents with the corresponding KVEDs (Classification of types of economic activity) to the military commissariat. Nevertheless, the issue also needs further clarification.

## The State Border Guard Service of Ukraine (SBGS)

Meetings: Online meeting, 22 December 2022; Meeting, Lviv 1 March 2023; Uzhgorod 2 March 2023

### Legal reasons for exiting Ukraine during mobilisation

1. The Cabinet of Ministers of Ukraine, Resolution no. 57 on the *Approval of the Rules for crossing the state border by citizens of Ukraine* from 27 January 1995 is governing the legal reasons for citizens of Ukraine to cross the state border of Ukraine.
2. During the State of Emergency or Martial Law, the Articles 2.1 to 2.13 of Resolution 57 are providing the legal reasons for citizens of Ukraine to cross the border during these conditions.
3. The Cabinet of Ministers has adopted several amendments to the legislation for the procedure to cross the border after the introduction of Martial Law in Ukraine on 24 February 2022.
4. The articles describes the overall procedures that regulate the border crossing for people covered by the mobilisation, such as people with three or more children; people with disability or serious medical conditions; people with children with disability or serious medical conditions. People crossing the state border under those conditions must carry the relevant documentation, for instance, a note from the Ministry of Health, certificate of disability and pension certificates.
5. Article 2.6 refers to the *Law on Mobilisation Training and Mobilisation*, article 23.
6. The SBGS has a website<sup>377</sup> that contains information for Ukrainian citizens regarding the rules for crossing the state border. However, the Ukrainian State Border Guard Service (SBGS) noted that the information on the website is not comprehensive, as the information is adjusted and targeting Ukrainian civilians of all ages and level of education.
7. The general rules states that there are persons who are prohibited from crossing the border even though they are exempted from military service. This includes categories such as students and persons with certain limitations or restrictions imposed by the law enforcement agencies, the courts or the Ministry of Justice. For instance, persons who are subject to limitations by law enforcement agencies, in case of debt, are prohibited exit of Ukraine. Men in the age category of 18-27 compose another category of men exempted from drafting but prohibited from exiting Ukraine.
8. There are certain categories of women who are prohibited from crossing the border. These include women who hold specific government positions. The list of categories are presented in resolution number 76 of the Cabinet of Ministers.

### Situation at the borders

9. The situation at the borders were chaotic the first period after the full-scale Russian invasion of Ukraine on 24 February 2022. There were long line of cars and people. In the first hours after the invasion, every person who approached the border crossing points (BCPs) were allowed to cross the border by the SBGS.
10. At 22:00 pm on 24 February 2022, new instructions were directed to the SBGS. This meant that only women, children and men more than 60 years old were allowed to cross the border.

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<sup>377</sup> <https://dpsu.gov.ua/ua/Peretinannya-derzhavnogo-kordonu-pid-chas-pravovogo-rezhimu-vonnogo-stanu-Pitannya-vidpovid/>

11. In the following days, further instructions were given to the border guards, resulting in higher compliance between the enforcement of exit regulations at BCPs and resolution 57, articles 2.1-2.13, which clarifies the exemptions for men between 18-60 years old.
12. In the beginning of 2023, the situation at the Ukrainian BCPs have become calmer. There were no long lines for crossing the borders, and the rules for crossing the borders were clearer, which made the work of the border guards easier.
13. The SBGS has received a list of categories of government positions that are not allowed to cross the border, including women holding certain government positions. When women present themselves at the BCPs, the SBGS check their occupation in their passports to verify if they hold positions that prohibits them from crossing the border.
14. According to the SBGS, there are not difference is the interpretation of the exit rules and procedures are uniform across the different BCPs. In case of controversies regarding implementation of the rules, the SBGS Administration may be consulted for guidance. For health-related documents presented at the BCPs, the SBGS verifies the documents through their collection of samples. There is no available database to validate documents. A person who claim to cross the border due to disability reasons is obliged to present a certificate of disability and pension certificate from the local administration centre.

### Prevalence and types of falsification and illegal border crossing

15. In the first period after 24 February 2022, there were many cases of falsifications of documents for men between 18 to 60 years old.
16. The first months after the full-scale invasion, students who studied abroad before the war were allowed to cross the border. However, this led to an increase in falsified admission documents to foreign education institutions. As a result, the lawful permission of students to exit Ukraine was revoked.
17. The SBGS furthermore detected falsifications of child birth certificates. The certificates were in some cases professionally produced with laser printing. The attempts were made to make it look like a person had three or more children, which would allow the male person to cross the border. The SBGS also put attention to the attempts on forging documents proving the guardianship for children.
18. According to the SBGS, there has been a prevalence of falsified documents related to disability status. As an example, a person could present a medical statement stating a category of disability, which would exempt the person for military service and thus being able to cross the border. Because of the falsification attempts, on 1 November 2022, an improved version of ID and stamps regarding documentation of persons who are truly categorised in the groups of disability was decided.
19. Some people also claimed that they had lost their stamp that would grant them exclusion of mobilisation to military service. This was most prevalent among some men who originated from the occupied territories.
20. The SBGS highlighted that there were falsification of documents for truck drivers. In some cases the trucks leaving Ukraine for special permission such as transporting humanitarian aid, medical or military supplies have permission to bring an extra driver. The scheme was that both or just the second truck driver then never returned to Ukraine.

21. There are still categories of people who can obtain permission to cross the border as, for instance, is the case with truck drivers. Some of them do not return, but the SBGS noted that the amount of people who do not return is insignificant.
22. The border guards reject approximately 100-200 persons daily at all BCPs for not having the legal reason to exit.
23. Between 10 – 30 persons are arrested daily for trying to cross the border illegally. The same amount are arrested at the other side of the borders.
24. Statistical data from both Ukraine and the neighbouring countries suggest that the illegal border crossing has decreased. However, the scale depends on the situation in Ukraine. SBGS further noted that the amount of detected forged documents has decreased.
25. The SBGS did not have information about the prevalence of bribery and corruption pertaining to authorities and government institutions who are involved in illegal issuance of documents to assist persons crossing the border.
26. According to SBGS, it is difficult to determine if some BCPs are subject to more cases of falsified documents than other BCPs. BCPs with high capacity are subsequently subject to more fraud. For instance, the biggest BCPs to Poland that can process 100,000 persons per day detect more cases of fraud with documents compared to a smaller BCP in Odesa Region that only deals with 1000 persons per day.
27. The SBGS noted that illegal border crossings are more prevalent along the borders to Romania and Hungary, which is caused by a larger presence of criminal groups in those areas who are specialised in organised human smuggling. There are less cases of illegal border crossing towards Slovakia, while there are very few cases along the border to Poland. There are examples of men who have been hiding in cars to cross the border. Organised human smuggling is prevalent as means to avoid mobilisation and gain social benefits in European countries.
28. According to the SBGS, people are not trying to escape mobilisation, when they attempt to cross the border. The people complain that they lost their work and/or lack of work opportunities because of the invasion. That is why they do not have the economic means to provide for themselves and their families. After the invasion, a substantial amount of businesses closed down because of military aggression, shelling or other attacks or because of problems with energy caused by the Russian attacks on Ukrainian energy infrastructures.
29. According to the SBGS, when a person attempts to cross the border, all documentation must be presented to the border guards. If a person does not have the relevant documents, the person will not be allowed to cross the border. The person will have to return to Ukraine to collect the relevant documentation.
30. At the beginning of the war, many people had problems with – among many other things – the issuance of documents. However, after a period the local administrations moved to areas that were not occupied or affected by hostilities. Therefore, the administrations have begun to issue documents again.
31. Only people originating from the occupied areas and areas of hostilities are allowed to cross the border on an internal passport. However, they are only allowed to do so, if they do not have an address registration in other parts of Ukraine. If they already registered with another address in areas that are not occupied or affected by hostilities, they are obliged to have an external passport issued in the area where they are registered. All other people have to present their external passport, as was the rule before the full-scale invasion.
32. When people who officially cannot leave Ukraine without special permission, such as politicians and higher officials (according to the latest amendment of the exit rules of Ukraine) or woman, the



names of these persons will appear in the SBGS' database. The same is the case with previous convicts who also are not allowed to cross the border.

33. When asked about whether the SBGS experience that other parts, such as for instance NGOs, can mediate if a person on false reasons has been denied to cross the border, the SBGS answered that no one are allowed to escort another person or somehow enter BCPs without a valid reason. Mediation and negotiation on behalf of other are not considered a valid reason. However, the SBGS do know there are persons receiving legal counselling and guidance from NGOs regarding documents required to cross the border, but according to the SBGS, the NGOs cannot consult the border guards.
34. There is no available database to verify military documents of men in the conscription age. The SBGS has samples to crosscheck the military documents presented at the BCPs and identify signs of forgery. SBGS may call the military recruitment centres and military commissariat to check whether the documents were issued.

### Measures taken to prevent falsifications

35. According to the SBGS, the border guards have several measures to detect forgery and illegal attempts to cross the border.
36. First, the scale of falsifications resulted in an integration and expansion of databases and registers, including the special software program ДІА (Дія). It is possible for the SBGS to send any request to the system of any kind of document and receive a reply within two-three seconds.
37. According to the SBGS, the amount of falsifications decreased significantly after the enactment of and integration in the databases. The SBGS informed in December 2022 that in the period from April to June, there were 40-45 cases of falsified documents a day. At the end of 2022, there are identified only 3-4 cases of fraud per day. Moreover, the perpetrators of falsification have become conscious about the comprehensive verification processes of documents, and consequently the demand to procure false documents has decreased significantly.
38. In the beginning of March 2023, the SBGS informed that the number of forgery attempts fell up to five times.
39. According to the SBGS, every amendment to the legislation, especially Resolution 57, that are approved, results in a decrease in forgery attempts.
40. According to the SBGS, there are a two-step mechanism of control measures, when Ukrainian male citizens between 18-60 years approach the border crossing point. The first line of control takes place with the first border guard. There will be a check of passport, military papers and documentation for exemption from military service such as medical papers, children's birth certificates etc. The documents will be checked for apparent forgeries or other indicators of possible falsifications.
41. All males between 18-60 years will pass through a second line of control carried out by an operational officer. This includes an interview with the person who wants to cross the border. Furthermore, there will be a deeper inspection of the documentation comparing it with samples and other relevant information. The operational officer can also call the relevant issuer of documents such as military recruiting centres and commissariats, medical institutions etc. In addition, SBGS can confiscate mobile phones to read the mobile data and lines of communication to detect signs that may indicate illegal acquisition of documents.
42. The SBGS has the relevant equipment to check most documents at the BCPs. For further investigation, the border guards can request for a mobile laboratory that are able to conduct further forensic document examination if needed.
43. Even though the SBGS had to recruit more personnel after the full-scale invasion, it is prioritised to keep the experienced passport specialists in the first- and second line of control. This also enables



the SBGS to maintain uniform procedures at the different BCPs. Besides, about 50 percent of SBGS personnel compose of women as the men are often called to serve in the military forces.

44. The SBGS personnel are generally given clear instructions based on the regulations and legislation in order to avoid ambiguities. If misunderstandings or uncertainties arise, the government has so far been fast to make amendments to the regulations.
45. The SBGS does also do regular analysis of certain issues. For instance, there are monthly analysis of pattern among truck drivers that are sent to the Ministry of Transportation and Infrastructure, which are the responsible authority for the system – Shliakh (ШЛЯХ) – that regulates the permissions.

### Punishment for illegal border crossing and forgery of documents

46. In Ukrainian legislation, crossing the border illegal is an administrative offense, according to article 204.1 in the Administrative Code of Ukraine. People who illegally try to cross the border can be subject to a fine, which amounts to 50-100 Euros.
47. Persons detected by the border guards are not directly subject to mobilisation; however, the SBGS notifies the military recruitment centres about the person.
48. People who are involved in the forgery of documents can be convicted for a criminal offence, according to article 358 of the Criminal Code of Ukraine. In cases where forgery of documents is detected at the BCPs, the SBGS refers the case to the national police.
49. Organisers of illegal border crossing can be penalised according to article 332 in the Criminal Code of Ukraine. If the smuggling constitutes human trafficking article 149 of the Criminal Code will be activated.

## The Ministry of Defence and the State Border Guard Service of Ukraine (SBGS)

Online meeting, 22 December 2022

### Legislation on exemptions to military service during mobilisation:

1. The Ministry of Defence stated that the main laws governing the military service and exemptions are *The Law on Military Duty and Military Service* and the *Law on Mobilisation Training and Mobilisation*. Some additional underlying documents explain the procedure. Resolution 45 and 194 of 3 March 2022 of the Cabinet of Ministers regulate the reservation of persons liable for military service, who can be reserved for the national economy, the enterprises, and the governmental and local authorities.

### Legal reasons for exiting Ukraine during mobilisation

2. Legal reasons for exemptions are provided in resolution 57, *On the approval of the Rules for crossing the state border by citizens of Ukraine*, of 27 January 1995. The legislation on mobilisation is a separate law from the procedure on border crossing, although they overlap in some instances. The procedure for the exit and entry is provided in the *Legislation on the Entry and Exit of Ukraine* established under the Cabinet of Ministers. During the state of emergency, the Cabinet of Ministers has adopted amendments to the legislation for the procedure of the border crossing.
3. The overall procedures that regulate the border crossing for persons with disability are stipulated in articles 2-1 to 2-13 in the Legislation on the Entry and Exit of Ukraine. The 13 articles specify regulations regarding exit of Ukraine during martial law – for instance for people with disabilities; people with a child with a disability; people who cross with children; people who have a medical conditions etc. Persons under those conditions have to carry the relevant note from the Ministry of Health.
4. Amongst the 13 articles, there is only one article that is related to the Law on Mobilisation Training and Mobilisation besides the article 23, paragraph one and two. SBGS recommended DIS to look into the 13 articles of the resolution that describes who are allowed to cross the border during the martial law period.
5. The information provided on the SBGS website regarding the rules of crossing the state border during the state of emergency is not comprehensive, as the information is adjusted and targeting Ukrainian civilians of all ages and levels of education.
6. Persons exempted from military service - but who are prohibited from crossing the border - include categories such as students and persons with certain limitations or restrictions imposed by the law enforcement agencies hereunder the courts or the Ministry of Justice. For instance, persons who are subject to limitations by law enforcement agencies, in case of debt, are prohibited exit of Ukraine. Men in the age category of 18-27 compose another category of men exempted from drafting but prohibited from exiting Ukraine.

### Issuance of military documents

7. There are different types of military registration documentations, which include temporary military certificates, military tickets and certificates for military registration.
8. The *certificate for military registration* covers a specific area or district and applies to the age category of 18 – 27, who are exempted mobilisation. Young men aged 17 years are issued the

document in order to be registered to serve in a specific military area. The document contains personal data and information on the status of their military service.

9. A person who is drafted or who concluded the military contract receives a *military ticket* from the unit in which they were registered. The military ticket contains information about achievements, positions, titles, range etc. Hence, men reaching the age of 27 are obliged under the regulations for mobilisation. The territorial staffing centre is in charge of issuing a document that indicates whether someone is obliged for mobilisation or receive a temporary certificate for exemption from mobilisation.
10. Men in the conscription age who are *exempted* from military service include those who 1) have reached the age of 60 2) suffer from a medical condition or 3) have committed a severe crime that has been reported to the regional military unit, in which they are registered. Exclusion based on a medical condition requires a *statement* from the Military Medical Commission indicating that a person suffers from a medical condition that prevents military duty.
11. Persons who are *excluded* from military service have a special note in their military document saying that they are excluded from military service. In addition, a special mark with the Ukrainian trident appear in the note. If a person is excluded based on a medical condition they are provided with an annex (which is called annex 4) from the Military Medical Commission stating that the person should be excluded. If the exclusion is based on a severe crime, the person is acquainted with a document from the court with the decision.
12. Persons who are exempted or excluded from military service have to receive the necessary documents prior receiving the exemption certificate from the territorial military staffing centres. Once the required documents are obtained, they can receive the note / certificate that grants them exclusion or exemption from drafting.
13. Persons leaving Ukraine for a period longer than three months are obliged to receive a note from the relevant offices that indicates exclusion from mobilisation.
14. There are amendments allowing pilots navy officers to cross the borders.

### Measures taken to prevent falsification of documents:

15. The documentation that grant permission to leave Ukraine is collected from many different services for the specific cases. In cases related to disabilities or having three or more children the National Social Services are responsible. . It can also include the Ministry of Health when there are people who have severe health issues. This can include people who need emergency treatment outside Ukraine. The Ministry of Infrastructure or the Ministry of Foreign Affairs can also provide documentation.
16. The scope of documentation is quite comprehensive. It is not possible for the border guards to verify all documents, forms, stamps and marks. In response, the digital database, DIIA, is enacted. This software with the purpose of crosschecking documents integrates and merges all national registers and databases. In the database, there is a register of all the relevant documents. Furthermore, the system enables SBGS to verify documents presented at the borders by checking whether the documentation has been issued.
17. The verification of military documents is also carried out through a database, which is based on a cooperation between the SBGS and the Armed Forces of Ukraine. This system is based on a cooperation between the Ministry of Defence and the SBGS. However, the database is not uniformed and not comprehensive enough to identify all issued documents. SBGS estimates that only 80 % of the documentation can be crosschecked within the system. The remaining verification

procedures are in the hands of the border guards. For instance, the border guards are in close contact with the military staffing centres from whom they can verify information regarding issuances of documents.

18. The SBGS runs a pilot project with Estonia that involves the presence of Ukrainian border guards at the border crossing point to Estonia to check who cross the from the Russian Federation, particularly. There are plans to expand the pilot project to Latvia and Lithuania. In addition, SBGS expects to enter into a cooperation with Frontex with aim of having Ukrainian border guards at the main airports in Europe to detect evaders and deserters.

## Prevalence and types of falsification

19. There were many cases of falsification of documents for men between 18 to 60 years old. For instance, there are examples of falsification of child certificates produced with laser printing. In that sense, the perpetrators can claim to have more children in order to meet the requirement of having three or more children to be excluded from military service.
20. Furthermore, there were instances of persons claiming that they had lost their stamp that grant them exclusion of military service/mobilisation. For instance, this was prevalent among some of the men who came from the occupied territories
21. SBGS also highlighted the prevalence of falsified documentation related to disability. This regards the medical statement indicating the category of disability of a certain person, because there is a threshold of categories that excludes people from military service and thereby giving them right to leave the country. On 1 November 2022, it was decided to facilitate an improved version of ID and stamps regarding documentation of persons who are truly categorised in the disability group.
22. At the start of the war, it was initially decided to allow students, who started their studies abroad before the invasion, to continue their studies. This led to an increase in falsified admission documents, certifying enrolment in educational institutions outside Ukraine. Based on investigations, foreign educational institutions disproved enrolment of a number of Ukrainian persons. As result, the lawful permission of students to exit Ukraine was revoked.
23. In light of the scale of falsifications, the SBGS was integrated with registers and databases, including the special software program DIIA/DIYA, in which documentation is stored digitally. . It is possible for the SBGS to send any request to the system about any kind of document and receive a reply within two-three seconds.
24. According to the SBGS, the amount of falsifications decreased significantly after the enactment of and integration in the databases. Moreover, the perpetrators of falsification have become conscious about the comprehensive verification processes of documents, and consequently the demand to procure false documents has decreased significantly.
25. When asked, the SBGS replied that the most prevalent cases of falsification relate to children's birth certificates and disability status.
26. According to SBGS, it is difficult to determine if some border crossing points are subject to more cases of falsified documents than other border crossing points. Border crossings with high capacity are subsequently subject to more fraud. For instance, the biggest border crossing point to Poland that can process 100,000 persons per day have therefore more cases of fraud with documents compared to a smaller border crossing point in Odesa Region that only deals with 1000 persons per day.

27. The scale of detected falsified documents has dropped significantly. In the period from April to June, there were 40-45 cases of falsified documents a day. At the end of 2022, there are identified only 3-4 cases of fraud per day.

## Punishment for evasion and desertion

28. Regarding punishment for evasion and desertion of military service, there are two separate types of offenses in the legislation. The first is called *civilian-military crime*, which refers to a person who is not employed yet by the military. The second type of offenses is the so-called *military crime*, which refers to a person who is already employed by the military and is committing a crime during service.
29. The civilian-military offenses are penalized according to article 336 of the Criminal Code of Ukraine, which regards evasion of military service. This is punishable with imprisonment for a term of 3-5 years.
30. The military offenses are penalized according to articles 407 and 408 of the Criminal Code of Ukraine. Article 407 regards absence without leave from a military unit or place of service. Article 408 relates to desertion, which is when a person leaves the military unit or place of service in order to evade military service.
31. When a person, who is serving in the military, leaves his unit or place of service under the conditions of martial law or in a battle conditions the punishment is 5-12 years in prison. When a person leaves his unit or place of service during peacetime, the punishment is imprisonment for 2-5 years.
32. The responsible department for handling military crimes is the Military Law and Order Service of the Ministry of Defence. The service is the Ukrainian military police. It keeps the records of data on cases of military evaders and deserters, but it does not conduct investigation. The body that is responsible for the investigation and persecution is the State Bureau for Investigation.
33. A person can only be convicted of evasion or desertion of military service by a decision made by the court. Those convicted for desertion or evasion can serve in a special detention facility for the military for up to six months. Thereafter, they will be serve their prison sentence in a general civilian prison facility.

## The National Agency on Corruption Prevention (NACP)

Online meeting, 24 March 2023

### Introduction

1. The National Agency on Corruption Prevention (NACP) is a central executive body with a special status. It is responsible for the development of anti-corruption policy and prevention of corruption. It was established in accordance with the Law of Ukraine on the Prevention of Corruption<sup>378</sup> from 2014.
2. The NACP has, among many tasks, the responsibility for analysing the situation regarding corruption in Ukraine and develop 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 in these bodies etc.
3. 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.

### Background

4. From the beginning of the full-scale invasion, the restriction of the right of conscripted men to cross the state border caused a significant public outcry and was accompanied by numerous scandals. Therefore, the NACP, as an authorized body, carried out a thorough analysis of border crossing processes, identified a number of schemes and corruption risks, shortcomings and gaps in legislative regulation and proposed solutions for the elimination of corruption risks.
5. In October 2022, the NACP published the report "*Corruption schemes and risks related to leaving the country during martial law*"<sup>379</sup>, which describes a list of eight identified illegal ways (schemes) of "circumventing" the ban on exiting Ukraine by men liable for military service under martial law since 24 February 2022. Some of the schemes regard corruption risks, while others are a result of illegal actions or significant shortcomings in the system that controls the state border crossing.

### Impact of the report

6. After the publication of the report in October 2022, the NACP initiated the formulation of an action plan with nine government bodies, which comprised of a list of measures to prevent the schemes and corruption risks. Furthermore, the NACP mentioned that a draft report had been presented to the Temporary Investigative Committee in the Verkhovna Rada. In the report, it is mentioned that approx. 11 % or more than 9,000 people, who crossed the border through the Shliakh system, did not return to Ukraine. The report further showed that many of the people who abused the Shliakh system to cross the border, originated from the western Ukraine.
7. The number of people trying to cross the border illegally has decreased after the report was published, which indicated that the recommendations of the report had an impact on the relevant

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<sup>378</sup> Ukraine, Закон України Про запобігання корупції [Law of Ukraine on the Prevention of Corruption], 2014 (latest amendments 13 December 2022), <https://zakon.rada.gov.ua/laws/show/1700-18#Text>

<sup>379</sup> Ukraine, National Agency on Corruption Prevention, *Corruption schemes and risks related to leaving the country during martial law*, October 2022,

authorities' way to counter the misuse of border regulations. The NACP highlighted that some measures have been implemented to prevent the risks.

8. The Ministry of Infrastructure and UkrTransBezpeka (The State Service of Ukraine for Transport Safety) made updates and improvements with regard to the Shliakh system.
9. The State Border Guard Service (SBGS) has received online access to some enlistment documents from the military recruitment offices.
10. Furthermore, NACP is repeatedly urging every relevant state body to minimise the corruption risks and eliminate any ambiguity to support the border guards in standardising the travel ban procedures.
11. Nevertheless, there are still people who are trying to cross the border without the legal grounds. Especially, the mountain areas at the border to Romania is exposed to illegal border crossing attempts outside the official border crossing points (BCPs) However, the situation has become more stable compared to the situation before the autumn of 2022.

### Legislative shortcomings

12. According to the overall assessment of the NACP, the first month after the full-scale invasion was characterised by multiple exceptions enabling people to cross the border. Furthermore, it was not clear, which documentation was required under each article in Resolution no. 57<sup>380</sup> for obtaining permission from the SBGS to cross the state border.
13. The opacities resulted in several misinterpretations and arbitrary decisions by the border guards. For instance, in the first period after 24 February 2022, there were several cases of people, who, according to the law, were allowed to cross the border but were rejected by the border guards. There were also cases of people who could not cross the border legally but, nonetheless, were granted permission to cross the border by the border guards anyways. This was, for instance, the case with students, who, according to the law, were deferred from military service, but because of the temporality of their deferral, they were not allowed to leave the country during martial law.
14. The NACP highlighted that the introduction of new amendments and exceptions almost on a daily basis was one of the main problems pertaining to the border control, since the authorities had to first monitor and thereafter implement the standard rules and procedures. This made it difficult for the SBGS to comply with the regulations and standardise decisions at across every BCP. This could also be part of the explanation as to why the interpretations and decisions of the SBGS were changing over time. Currently, not all issues are settled and contained in the explanations.
15. Even the NACP, who normally analyse how amendments could influence future border crossings, was not always informed about the new amendments. This was a problem, since the NACP is the only official body to analyse corruption risks in the process.

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<sup>380</sup> Ukraine, Кабінет Міністрів України, *Про затвердження Правил перетинання державного кордону громадянами України*, Постанова від 27 січня 1995 р. № 57 [*Rules for crossing the state border by citizens of Ukraine as approved by Resolution No. 57 of the Cabinet of Ministers of Ukraine dated January 27, 1995*], latest update 10 February 2023, [url](#)



16. Many of the amendments created risks of corruption. Even though the amendments were needed in the present situation, they created loopholes for people with the intention to exit the country, whether it was for avoiding the mobilisation or for taking a vacation abroad.
17. The NACP highlighted the amendments to the rules regarding cultural activities. The overall assessment was that it was not clear to whom and for what kind of activities these amendments applied. This created situations where people could misuse the rules and leave the country on a false pretence.
18. Similarly, the NACP noted that the terminology regarding athletes' right to cross the border were also foggy. The NACP has been presented to reports that describe how some people, who formally had a supportive role for a sports team, were crossing the border and did not return to Ukraine together with the team.
19. The same applies to people who are accompanying someone for treatment abroad. According to the NACP, there have been issues with those people who were supposed to accompany sick or disabled people for treatment. There have been cases where people have abused the rules that allow people to accompany other people for treatment abroad, but in reality used the permission to exit Ukraine and not return.
20. Furthermore, there have been introduced some provisions to the amendments that give people with disability the right to cross the border. The NACP conducted a separate study about the medical and social sector with the conclusion that corruption prevailed with the result that people could corruptly obtain medical certificates stating a disability status.

## Corruption

21. In general, there has been a lot of media attention in Ukraine on falsified documents. The NACP noted that some NGOs were often involved in the process. In several cases, journalists have revealed that many members of the parliament, high-profile officials or children of politicians have left Ukraine circumventing the rules for crossing the border using some NGOs to obtain false documents.
22. The NACP had seen reports of many influential and wealthy people who were carrying large amounts of undeclared money while crossing the border. The NACP knew of some specific BCPs where the border guards deliberately ignored the transportation of cash and other valuables.
23. The NACP noted that it is difficult to assess whether the allowing of wealthy people and high profile officials on false pretence was a sign of systemic corruption in the SBGS or whether it was the acts of individual border guards. However, according to the NACP the permission of allowing certain profiles to cross the border could not be based on an individual decision, but based on a decision of a superior officer who ordered them to pass. There are no official indicators on specific corrupt BCPs, however, the NACP was aware of the existence of forums on social media where people discussed, which BCPs were easier to cross, which were difficult, which were or were not corrupt etc.
24. The border guards have low salaries and consequently they might be prone to the temptation of corruption. There have been several cases of corruption in the SBGS.
25. The majority of illegal border crossing cases are a result of corruption. The NACP noted though that corruption is less widespread within the SBGS and the BCPs compared to other sectors. In reality, a person would have to pay more money to a border guard than to a doctor in a medical commission.

The doctor could then issue an official paper confirming a disability or medical need status. Such a document would cost up to 1,000 US dollars depending on the region and it would be noted in the official records. According to the NACP, this type of corruption is more widespread compared to, for instance, the prevalence of falsified birth certificates (in order to confirm three or more children) or documents stating the need for treatment abroad.

26. Of other state officials where corruption was prevalent, the NACP mentioned regional military administrations as well as officials from the Ministry of Infrastructure.

## Shliakh

27. The Ukrainian Ministry of Infrastructure and the UkrTransBezpeka administer the system *Shliakh* (the path), which was highlighted as one of the most prevalent corruption schemes since 24 February 2022 in the NACP report from October 2022. The NACP still concluded in April 2022 that the system had a high risk of abuse.
28. According to the NACP, charity organisations have especially been the centre of abuse and constitute the most serious risk of corruption. Since many charity organisations bring humanitarian aid to the country, they are transmitting lists of drivers through the Shliakh system. This will provide the drivers with a permission to leave the country for 30 days to bring the aid.
29. However, the NACP noted that it was clear that some charity organisations received money for designating people as drivers, because in many cases the permissions were given to men who definitely were not drivers.
30. As an example, the NACP mentioned that a former top official from one of the country's regions crossed the border as a humanitarian driver and no officials paid attention to this.
31. The NACP stated that the system is flawed and there are no clear mechanisms in place on how to detect the abuse of charity organisations. Furthermore, there are no centralised databases on the organisations delivering humanitarian aid. In reality, these organisations can register any person as driver, and as a result, many persons are registered in the system, even without a driver's license.
32. The Ministry of Infrastructure and the UkrTransBezpeka have been hiring new people to administer the Shliakh system. On social medias, the officials are announcing new amendments to the system. Furthermore, there is a new tendency to report corruption cases, which, according to the NACP, indicates that action are taken to fight corruption. However, the NACP noted that the necessary documents needed for the implementations of the improvements have not yet been approved in the Cabinet of Ministers.
33. However, on an overall level, the relevant authorities have expressed that they are thinking about improving the situation regarding the Shliakh system.

## Anti-corruption measures

34. The NACP highlighted that most Ukrainian government authorities have their own anti-corruption programs, which consist of different kind of measures to fight corruption within their organisation.
35. The NACP emphasised that in several state bodies, including the SBGS, there have been reports of a number of lay-offs. For instance, when civil activists have reported corruption incidents in the SBGS, many people from the SBGS administration were dismissed.

36. The NACP is constantly conducting training for authorised persons in those government bodies. The trainings include the drafting anti-corruption programs, implementation of anti-corruption measures, assistance in setting up channels for whistle-blowers, prevention of conflict of interests, etc.
37. Furthermore, other government authorities' attitudes and behaviour towards the NACP are normally fine. The NACP stated that they only experience obstacles when their research concerns security or classified concerns. It is the priority of the president and the government that the country takes comprehensive measures against corruption and without obstacles.
38. However, the NACP is not a law enforcement agency, but an advisory organisation that formulates anti-corruption policy based on analysis and monitoring. The NACP stated that it makes an effort within their mandate and authority to promote changes in the government agencies. The publication of the report from October is one way; another way is to urge the other authorities to improve the situation.
39. For instance, regarding the problems with the Shliakh system, the NACP would like to have better developed anti-corruption measures covering the Ministry of Infrastructure who administer the system and the local self-government bodies who are working with the organisations who are using the Shliakh system, among others the charity organisations.
40. The NACP emphasised that the resources of the SBGS were insufficient in regards to verification of all documentation. This especially applied to documents confirming a disability status. NACP recommended that the SBGS should obtain access to the necessary registries verifying a disability.
41. In general, people approaching the BCPs are often presenting a large pile of documents. The border guards are then verifying the seals, stamps and signatures. According to the NACP, this process contributes to a corruption risk in form of falsification of documents, because if the documents are official documents that are corruptly issued, it is very hard to detect.
42. Furthermore, Ukraine is the largest country in Europe and has a vast border to control. Therefore, the NACP urgently recommended that the SBGS received access to digital systems, enabling them to use simple identifiers such as passport-, personal or tax code number. The information should then be interconnected between different automatic systems, making it easier for the border guards to verify a person's legal grounds to cross the border.
43. However, the SBGS has received improved access to military records, but, according to the knowledge of NACP, not all military documents have been digitalised yet.
44. In the SBGS' system, it is possible to check whether a person crossed the border at an official BCP. This means that if a person crossed the border illegally outside an official BCP and then returned, it would appear on the screen of the border guards.

### Illegal border crossing – crossing the border outside the official BCPs

45. There has been cases of illegal border crossings outside the official BCPs, especially in the south-western part of Ukraine with the border to Romania and Moldova. The NACP could not rule out the presence of organised criminal network in the activities concerning illegal border crossing outside the official BCPs. However, the NACP also highlighted other factors behind the illegal border crossings.
46. First, the geographical area in the south-west border regions mostly consists of mountains and rivers and it is probably perceived easier to move around undetected in these areas. However, this

is often not the case. There are sophisticated surveillance systems in place and the border guards usually detect many attempts in those areas.

47. Second, the NACP noted that the people, who try to cross the border illegally, are normally people of low income who pay a small amount of money in exchange for assistance to cross the border. They may not have the money to pay corrupt officials for issuing a necessary document or are not aware of the opportunity.
48. Third, according to the NACP, it most often happens that people are paying someone through acquaintances to help them cross the border. In many cases, people end up being deceived even though they paid for the service.
49. Finally, the NACP could not exclude that at some BCPs there were senior SBGS leaders who have been working there for many years and who might have used corruption as an alternative payment and thereby allowing people to cross regardless of the official rules. However, the NACP could not point out certain BCPs that could be problematic in this regard.

## Documents

50. The specified table in the report detailing required documents was formed on the basis of the resolution of the Cabinet of Ministers of Ukraine dated 27.01.1995 No. 57, with subsequent changes, as well as on the basis of clarifications from the state border service. Information regarding the list of documents may change, and it is necessary to follow the updates in the above resolution.

## Annex 2: Translation of NACP report<sup>381</sup>

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### Corruption Schemes and risks related to leaving the country during martial law

#### INTRODUCTION

The large-scale, unprovoked aggression of the Russian Federation against Ukraine, which began on February 24, 2022, has arisen the need for the immediate full mobilization of defence resources to repel the aggressor. The question arose of the expediency of restricting the possibility of leaving the territory of Ukraine by citizens of Ukraine who are subject to military service during mobilization or who may be involved in socially useful work under martial law. The response of the state authorities to the challenges was immediate: On February 24, 2022, martial law was introduced throughout Ukraine and full mobilization was announced. Moreover, for the first time in the history of independent Ukraine, the order of the Administration of the State Border Guard Service of Ukraine (State Border Guard Service), set forth in an unpublished letter, introduced a large-scale and unprecedented restriction of one of the fundamental constitutional human rights – the right of all men aged 18 to 60 to freely leave the territory of Ukraine. At the same time, the absolute ban on men leaving Ukraine could not last. The economic, political, humanitarian and social problems faced by Ukraine as a result of the hostilities and threats to national security required immediate response and cooperation with foreign partners, including those outside the territory of Ukraine. In addition, the processes of Ukraine's integration into the international environment, cross-border cooperation and ties at various levels and in various spheres of society could not be stopped simultaneously without significant damage to the state. All of these processes required the possibility of traveling abroad for a certain category of men aged 18 to 60, and thus prompted the government to introduce exceptions to the general ban. The first adjustments took place the next day after the ban was announced – on February 25, 2022 – and launched the process of continuously expanding the grounds for allowing men with military service to travel outside Ukraine. This process is actively ongoing.

At the same time, the National Agency, as the body authorized to implement the state policy on preventing corruption, notes that any restriction of a fundamental (natural) human right does not eliminate the need to exercise such a right, so it inevitably gives rise to a search for ways to circumvent the restriction, which are mostly implemented illegally and through corrupt practices. Due to the significant public outcry caused by this topic, numerous publications in open sources and social media about illegal schemes that are systematically implemented to “get around” the ban and have grown into a “shadow business”, and given the constant initiatives of state authorities to expand the grounds and the results of their anti-corruption expertise, the National Agency analysed corruption and other risks that arose in connection with the introduction of the ban and exist in the process of traveling abroad for men liable for military service.

#### GENERALIZED CONCLUSIONS

The analysis of the provisions of legal acts and official documents available to the National Agency leads to the conclusion that the legislation has no direct or indirect ban on men to travel abroad established.

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<sup>381</sup> Ukraine, National Agency on Corruption Prevention, *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, <https://nazk.gov.ua/wp-content/uploads/2022/10/Koruptsiy-ni-shemy-ta-ryzyky-pid-chas-vyi-zdu-z-Ukrai-ny-v-umovah.pdf>

Officials of the State Border Guard Service, when deciding on the ban of travel outside Ukraine by men liable for military service aged 18 to 60, were and continue to be guided by information from the only source:

- 1) in the period from February 24, 2022 to April 1, 2022 – letters from the Administration of the State Border Guard Service and information messages posted on the official websites of the Cabinet of Ministers of Ukraine and the State Border Guard Service;
- 2) in the period from April 1, 2022 to the present – the Rules for Crossing the State Border by Citizens of Ukraine as approved by Resolution of the Cabinet of Ministers of Ukraine No. 57 dated January 27, 1995 (Rules No. 57), which provide for the right of persons liable for military service to cross the state border of Ukraine only on certain documented grounds, letters and information messages of the Administration of the State Border Guard Service.

Exceptions to the restrictions on the right to travel abroad are primarily provided for by Rules No. 572, but also by letters and information messages of the State Border Guard Service Administration posted on official websites. At the same time, there are reasonable grounds to believe that the restriction of the right of men liable for military service to travel outside Ukraine during the period of martial law was introduced and implemented in a manner contrary to the Constitution of Ukraine and the laws of Ukraine. Thus, in accordance with Articles 33 and 64 of the Constitution of Ukraine, the right of a citizen to freely leave the territory of Ukraine may be restricted only by the law of Ukraine, and in the conditions of martial law, in accordance with Articles 1, 2, 6, 8 of the Law of Ukraine “On the Legal Regime of Martial Law” – by a decree of the President of Ukraine on the introduction of martial law approved by the Verkhovna Rada of Ukraine.

However, despite the well-established belief that the source of the current restriction is the Decree of the President of Ukraine No. 64/2022 “On the Introduction of Martial Law in Ukraine” dated February 24, 2022, this Decree does not establish (does not state) restrictions on the constitutional rights and freedoms of man and citizen, but only allows for such a possibility in the future, reproducing verbatim the relevant provisions of the Constitution of Ukraine. There are also no restrictions on the right to travel outside of Ukraine either in the Decree of the President of Ukraine No. 69/2022 “On General Mobilization” dated February 24, 2022 as approved by the Law of Ukraine No. 2105-IX “On Approval of the Decree of the President of Ukraine “On General Mobilization” dated March 3, 2022, or in the Law of Ukraine “On Mobilization Preparation and Mobilization”, or in the Law of Ukraine “On the Legal Regime of Martial Law”, or in any other law of Ukraine. It is a mistake to assume that the State Border Guard Service (or the Cabinet of Ministers of Ukraine, the Ministry of Defence of Ukraine, other military command bodies) is authorized to restrict the rights provided for in Article 33 of the Constitution of Ukraine, delegated (granted) on the basis of the Decree of the President of Ukraine No. 64/2022 “On the Introduction of Martial Law in Ukraine” dated February 24, 2022. In turn, it can be confidently stated that the imposed restriction has led to:

- the development of 8 illegal and semi-legal schemes for men to leave Ukraine “by getting around” the restriction in order to avoid mobilization and in other private interests, for example, as drivers of humanitarian cargo or drivers carrying out international passenger transportation through the Shliakh system, or on the basis of forged documents with information on the removal of persons liable for military service from the military register;

- the emergence of at least 7 corruption risks highly likely to be implemented, which are related to obtaining undue benefits for making decisions, performing actions or processing documents for traveling abroad, and are inherent in the activities of a wide range of entities, in particular, the State Border Guard Service, territorial centres for recruitment and social support, military medical commissions, disability determination services, regional military administrations, public authorities, in particular State Service of Ukraine for Transport Safety, charitable foundations and public organizations.

**The sources of corruption risks attention should be paid to include the following:**

- shortcomings in the regulatory framework, which, in particular, allow men to travel abroad as drivers even without a driver's license;
- poor quality of legal regulation of certain procedures for men to travel abroad, which, on the one hand, reduces certain procedures to purely formal ones – as in the case of permission for drivers to travel outside Ukraine – and, on the other hand, provides public authorities with broad discretion to interpret the law at their own discretion;
- considerable discretion in the powers of officials who make decisions or participate in the processes of crossing the state border by men liable for military service – this reason, in particular, allows for corruption schemes involving regional military administrations that make decisions on the departure of drivers of humanitarian cargo or cargo for the needs of the Armed Forces of Ukraine abroad;
- lack of transparency in decision-making related to the realization of human and civil rights, which is evident in the decisions of the State Border Guard Service officials and explanations issued by the Administration of the State Border Guard Service;
- lack of proper control over compliance with the conditions of travel abroad by men liable for military service, in particular by officials of the State Border Guard Service, and lack of interaction (exchange of information) between state bodies. For example, according to the State Border Guard Service, as of September 10, 2022, since the beginning of martial law, more than 8 thousand men liable for military service have attempted to illegally cross the state border. More than 5.6 thousand of these offenders were stopped by border guards outside checkpoints. The rest tried to cheat at passport control.

About 245 attempts to bribe border guards were recorded, during which border guards refused from illegal benefits totalling more than UAH 3.8 million. In addition, based on the materials of the State Border Guard Service operational and investigative units, more than 170 criminal proceedings were initiated for illegal transportation of persons across the state border of Ukraine (Article 332 of the Criminal Code of Ukraine), almost 470 proceedings for forgery and use of forged documents (Article 358 of the Criminal Code of Ukraine), and 10 proceedings for draft evasion (Article 336 of the Criminal Code of Ukraine). More than 400 people have already been notified of being suspected of committing these crimes. At the strategic level, the restriction of the right of men liable for military service to travel outside Ukraine and the implementation of exceptions to this rule leads to the following negative consequences – violation of basic human rights;

- legal inequality, when the law is not applied equally;
- violation of the principle of legal certainty in legislation;



- widespread use of “manually handling” of tools and corruption in legal relations related to traveling outside Ukraine;
- an increase in the number of administrative and criminal offenses related to attempts to cross the state border, evasion of mobilization and military duty;
- distortion of the purpose for which the restriction of the right was introduced

## **METHODOLOGY**

In the course of the analysis, the National Agency has:

- restored the chronology of the ban;
- analysed the sources of law that established the ban and introduced exceptions to the ban;
- sent more than 20 requests to central executive authorities and regional military administrations, analysed their responses and hundreds of documents documenting the circumstances of travel abroad for various reasons by men liable for military service during the ban;
- interviewed officials of the State Border Guard Service and the Ministry of Infrastructure of Ukraine;
- analysed data from the Shliakh and “Arkan” information systems;
- monitored information from open sources and Telegram channels;
- analysed the court practice of resolving disputes over decisions of state border control authorities to refuse to cross the state border of Ukraine to travel abroad. This analytical report consists of three parts: the first part contains a legal analysis of the restrictions on the right of men liable for military service to travel abroad, which, among other things, describes in chronological order how the restrictions and exceptions to them were implemented, and the second part describes schemes for “getting around” this restriction and corruption risks that exist in the procedures for crossing the state border by men liable for military service. The third part summarizes recommendations of the National Agency.

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## **I. LEGAL ANALYSIS OF THE RESTRICTION OF THE RIGHT OF MEN LIABLE FOR MILITARY SERVICE TO TRAVEL OUTSIDE OF UKRAINE UNDER THE LEGAL REGIME OF MARTIAL LAW**

The principles of the introduction of martial law and temporary restriction of constitutional rights and freedoms of a person and a citizen in connection with its introduction are determined by the Constitution of Ukraine and the Law of Ukraine “On the Legal Regime of Martial Law”. The provisions of Articles 33, 64 of the Constitution of Ukraine, clause 5, Part 1, Article 6, Part 6, Article 5 of the Law of Ukraine “On the Legal Regime of Martial Law” stipulate that in case of martial law, constitutional rights and freedoms of a person and a citizen may be temporarily restricted exclusively by a decree of the President of Ukraine on the introduction of martial law, which is subject to approval by the Verkhovna Rada of Ukraine and comes into force simultaneously with the entry into force of the law approving such a decree. The National Agency analysed in chronological order how, from the first day of hostilities until now, the restriction on the right of men liable for military service aged 18 to 60 to travel outside Ukraine and exceptions to this restriction were regulated, and found that the principles set out in the Constitution of Ukraine and the laws of Ukraine

were not observed. Although the state authorities have been looking for ways to improve the legal regulation of this issue for almost six months, it should be noted that no law of Ukraine currently restricts the right of men to travel outside Ukraine during martial law. During the period of martial law, all possible grounds for allowing male citizens of Ukraine aged 18 to 60 to cross the state border are provided for in para. 21-2 12 of the Rules No. 57. In simple terms, the persons who may be allowed to cross the border is limited only to the following:

- persons with disabilities and persons accompanying them;
- persons accompanying children with serious illnesses and orphans;
- persons liable for military service who are not subject to call-up for military service during mobilization;
- wounded members of the defense and security forces who travel abroad for treatment and their family members;
- drivers of humanitarian, medical cargo, cargo for the needs of the Armed Forces of Ukraine;
- drivers of carriers licensed to carry out international freight and passenger transportation;
- employees of railway transport enterprises;
- athletes and persons providing organizational support for sports events;
- sailors; - aviation personnel.

Departure is subject to compliance with the established procedures and provision of supporting documents.

At the same time, since the decision to restrict the right of men to travel abroad for the period of martial law was made in a state of urgency to meet the urgent needs for mobilization and defense of Ukrainian statehood, it is obvious that when introducing the restriction, not all aspects of state policy and public life were weighed, and not all the adverse consequences of the restriction on international, foreign economic, humanitarian, cultural, etc. legal relations were calculated. Although the gradual decisions of the Cabinet of Ministers of Ukraine to expand the circle of persons allowed to leave Ukraine to some extent eliminate such consequences, it is not yet possible to state that the existing problems and gaps in regulatory regulation have been completely resolved. In order to maintain a balance between the needs of the state for military force and the needs of the state, society, and individuals in all other equally important areas of legal relations that require men of military age to stay and operate outside Ukraine, the State Border Guard Service was forced by emergency to make the only possible administrative decision under the current circumstances: to allow individual men to travel abroad in cases not provided for by law, by decision of the Head of the State Border Guard Service.

The reasons for men liable for military service to travel abroad in this way vary: service-related reasons (participation in international events, international cooperation, driving a vehicle used by government officials);

film premieres, concerts, telethons, and other cultural events in the European Union); personal reasons (personal treatment, care for a relative in hospital, internships, participation in international events), etc.

business activities (execution of foreign economic contracts, negotiations); humanitarian reasons (fundraising, humanitarian aid for the needs of the Armed Forces of Ukraine); cultural reasons (participation in music and film festivals),

**1. Timeline of the adoption of the main documents on the basis of which the State Border Guard Service officials decide to refuse to allow men aged 18 to 60 to cross the state border**

- February 24, 2022

Due to the invasion of Ukraine by the Russian Federation, the President of Ukraine adopted two decrees: 1) No. 64/2022 “On the Introduction of Martial Law in Ukraine” dated February 24, 2022, which introduced martial law throughout Ukraine. The Decree was approved by the Law of Ukraine No. 2102-IX “On Approval of the Decree of the President of Ukraine “On the Introduction of Martial Law in Ukraine” dated February 24, 2022 and entered into force on February 24, 2022. Clause 3 of this Decree establishes that in connection with the introduction of martial law in Ukraine temporarily, during the period of legal regime of martial law, the constitutional rights and freedoms of the individual and the citizen, provided for in Articles 30-34, 38, 39, 41-44, 53 of the Constitution of Ukraine, may be restricted, as well as temporary restrictions may be introduced on the rights and legitimate interests of legal entities within the limits and extent necessary to ensure the possibility of introducing and implementing legal measures of martial law, which are provided for in Part 1, Article 8 of the Law of Ukraine “On the Legal Regime of Martial Law”. Among the rights that may be restricted is the right to leave the territory of Ukraine, established by Article 33 of the Constitution of Ukraine; 2) No. 65/2022 “On General Mobilization” dated February 24, 2022, which announced general mobilization in all regions of Ukraine and the city of Kyiv. It was decided to conscript persons liable for military service and reservists in the amounts determined in accordance with mobilization plans. Referring to the Decree of the President of Ukraine dated February 24, 2022 No. 64/2022 “On the Introduction of Martial Law in Ukraine”, the Head of the State Border Guard Service at 08:38 pm sent a letter to all bodies of the State Border Guard Service No. 23-6122/0/6-22-Vykh “On the Decree of the President of Ukraine”, which, in the absence of legally defined grounds, ordered to ban the departure of Ukrainian male citizens aged 18 to 60 from Ukraine for the period of martial law regime. This letter is the first official document that: 1) peremptorily stated and thereby established a ban on traveling outside Ukraine; 2) specified this ban by gender and age, extending it exclusively to men aged 18 to 60. At 11:33 pm on February 24, 2022, on the official website of the Cabinet of Ministers of Ukraine, the Administration of the State Border Guard Service announced a temporary restriction on the departure from Ukraine for a certain category of citizens, in particular, a ban on the departure from Ukraine of male citizens of Ukraine aged 18 to 60 for the period of martial law.

- February 25, 2022

In a letter dated February 25, 2022 No. 23-6081/0/6-22-Vykh addressed to the bodies of the State Border Guard Service, the Head of the State Border Guard Service, in addition to the letter dated February 24, 2022 No. 23-6122/0/6-22-Vykh, defined the first exceptions to the ban and clarified that the ban on the departure from Ukraine of male citizens of Ukraine aged 18 to 60 does not apply to persons specified in Article 23 of the Law of Ukraine “On Mobilization Preparation and Mobilization”, in particular to 8 categories of persons

- 1) those who have a certificate of deferment from conscription and a notice of enrolment in a special military registration
- 2) those who have a conclusion of the military medical commission on their unfitness;
- 3) those who maintain three or more children under the age of 18;
- 4) those who independently raise a child (children) under the age of 18;
- 5) those who maintain a child with a disability under the age of 18 or an adult child who is a person with a group I or II disability until he or she reaches the age of 23;
- 6) adoptive parents, guardians, foster parents, custodians who maintain orphans or children deprived of parental care under the age of 18;
- 7) those engaged in full-time care of persons in need, in the absence of other persons who can provide such care;
- 8) whose close relatives (husband, wife, son, daughter, father, mother, grandfather, grandmother or sibling (full or half-sibling) were killed or went missing during the anti-terrorist operation.

- March 7, 2022

The Cabinet of Ministers of Ukraine adopted Resolution No. 218 dated March 7, 2022 “On Amendments to Resolution of the Cabinet of Ministers of Ukraine dated March 3, 2022 No. 194”. Resolution of the Cabinet of Ministers of Ukraine No. 194 dated March 3, 2022 “Some Issues of Reservation of Persons Liable for Military Service under the Legal Regime of Martial Law” was supplemented by a new clause 7, according to which the Ministry of Infrastructure, regional and Kyiv City Military Administrations are authorized to:

- 1) make decisions under the legal regime of martial law regarding the reservation of conscript drivers engaged in transportation for the needs of the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine, as well as medical and humanitarian aid cargo, and conscript employees of railway transport enterprises who ensure the functioning and uninterrupted operation of the railway;
- 2) send such decisions to the Administration of the State Border Guard Service for consideration when citizens of Ukraine leave and enter Ukraine. The Resolution of the Cabinet of Ministers of Ukraine No. 218 dated March 7, 2022 became the first legal act to introduce exceptions to the restriction on the right of men liable for military service aged 18 to 60 to travel outside Ukraine, as set out in the letters of the State Border Guard Service

- March 12, 2022

The Cabinet of Ministers of Ukraine adopted Resolution No. 264 dated March 12, 2022 “On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine”, which were approved by Resolution No. 57 of the Cabinet of Ministers of Ukraine dated January 27, 1995. The Rules No. 57 have been supplemented with provisions that, under martial law, grant the right to cross the state border of Ukraine to persons with group I and II disabilities, persons with disabilities recognized by a court as incapacitated or limited in capacity, persons with disabilities living/staying in care facilities, and persons accompanying

them. Requirements for supporting documents are set. It also defines the rules for accompanying children with disabilities, children with serious illnesses as defined in the Rules No. 57, orphans and children deprived of parental care under the age of 18 to travel outside Ukraine. Requirements for supporting documents are set.

- March 17, 2022

The Administration of the State Border Guard Service sent a letter dated March 17, 2022 No. 23-6855/0/6-22-Vykh to the State Border Guard Service. In the letter, the State Border Guard Service reintroduces novelties in the regulation of restrictions on the right to leave and exceptions to it, namely:

- 1) the State Border Guard Service has been provided with a centralized explanation of the documents that can confirm that a person belongs to one of the 9 categories of persons to whom the right to leave is not restricted;
- 2) in contrast to the provisions contained in the letter of the Administration of the State Border Guard Service dated February 25, 2022 No. 23-6081/0/6-22-Vykh, the right to leave for persons who have a conclusion of the military medical commission on unfitness has been clarified and granted only to persons who are unfit for military service in wartime;
- 3) departure is allowed to persons who have moved to other states for permanent residence, which is confirmed by documents;
- 4) students of professional higher education, intern assistants, postgraduate students and doctoral students studying abroad in full-time or dual forms of education (students, auditors) are allowed to leave;
- 5) persons whose close relatives were killed or went missing during the anti-terrorist operation were excluded from the list of persons entitled to travel outside Ukraine.

- March 29, 2022

The Cabinet of Ministers of Ukraine adopted Resolution No. 383 dated March 29, 2022 “On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine” due to changes in the Rules No. 57:

- 1) expanded the range of persons with disabilities, the grounds and procedures for their travel abroad accompanied by other persons, in particular, persons with disabilities of group III are allowed to travel abroad accompanied by their spouse (if they have documents confirming family ties and disability);
- 2) clarified the grounds and procedures for traveling abroad by children suffering from certain diseases specified in Rules No. 57, orphans, children deprived of parental care under the age of 18, and persons who may accompany them;
- 3) the right to cross the state border for all persons liable for military service who are not subject to call-up for military service during mobilization was regulated by a legal act (new clause 26 was added to the Rules No. 57).

- April 1, 2022

The Cabinet of Ministers of Ukraine adopted Resolution No. 399 dated April 1, 2022 “On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine”, by which it revised the previously

introduced exceptions to the ban for men to travel outside Ukraine. Thus, the right to travel abroad for persons with disabilities of group III accompanied by a spouse has been excluded from the Rules No. 57. In addition, clause 26 of Rules No. 57 excludes from the list of persons liable for military service who are not subject to call-up for military service during mobilization and have the right to travel outside Ukraine the persons specified in sub-clauses 2-8, Part 3, Article 23 of the Law of Ukraine “On Mobilization Preparation and Mobilization”, namely:

- 1) students of vocational pre-university and higher education, intern assistants, graduate students and doctoral students studying full-time or under dual forms of education;
- 2) research and teaching staff of higher and professional higher education institutions, scientific institutions and organizations who have an academic title and/or academic degree, and teaching staff of general secondary education institutions, provided that they work at least 0.75 of a full-time position at their main place of work in higher or professional higher education institutions, scientific institutions and organizations, or general secondary education institutions;
- 3) women and men whose close relatives (husband, wife, son, daughter, father, mother, grandfather, grandmother or sibling (full or half) were killed or went missing during the anti-terrorist operation. In connection with these changes, the right to travel outside Ukraine for all categories of persons liable for military service who are not subject to call-up for military service during mobilization, and persons with disabilities of group III accompanied by their spouses, existed only for 1 day – on April 1, 2022, when the Resolution of the Cabinet of Ministers of Ukraine No. 383 dated March 29, 2022 came into force, and until the Government Resolution No. 399 of April 01, 2022 came into force on April 02, 2022.

- April 5, 2022

The Cabinet of Ministers of Ukraine adopted Resolution No. 411 dated April 5, 2011, approving the Procedure for sending persons from defense and security forces affected by the military aggression of the Russian Federation against Ukraine for treatment abroad. The Resolution also amended Rules No. 57 – clause 27 allows such persons and family members who may accompany them to travel outside Ukraine based on certain documents.

- May 20, 2022

The Cabinet of Ministers of Ukraine adopted Resolution dated May 20, 2022 No. 615 “On Amendments to Resolutions of the Cabinet of Ministers of Ukraine dated January 27, 1995 No. 57 and March 3, 2022 No. 194”. The Resolution amended the legal regulation of granting permission to leave Ukraine:

- 1) drivers engaged in the transportation of medical cargo, humanitarian aid by motor vehicles for the needs of the Armed Forces, other military formations formed in accordance with the laws of Ukraine and the population of Ukraine
- 2) employees of railway transport enterprises who are liable for military service and ensure the functioning and uninterrupted operation of the railway. Due to the amendments, permission for such persons to travel outside Ukraine is no longer granted through the reservation procedure for persons liable for military service, but on the basis of decisions on travel outside Ukraine made by the Ministry of Infrastructure of Ukraine, regional and Kyiv city state administrations on the basis of certain grounds as provided for in Rules No. 57. For the drivers of goods referred to in clause 1 above, there is also a requirement to have

information about their identity in the Shliakh information system, which is administered by State Service of Ukraine for Transport Safety. In addition, the Resolution supplemented the Rules No. 57 with new clauses providing for additional exceptions to the restriction on the right of men to travel outside Ukraine during martial law:

1) clause 29, which introduced a procedure for passing through the state border of Ukraine drivers of vehicles of business entities licensed to carry out economic activities for the international transportation of goods and passengers by road and whose information is included in the Shliakh information system

2) clause 211, which defines the grounds for allowing certain categories of athletes and their coaches, sports judges and other specialists who provide training for athletes and sports competitions on various issues to cross the state border of Ukraine.

- September 2, 2022

The Cabinet of Ministers of Ukraine adopted Resolution No. 992 dated September 2, 2022 "On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine". Rules No. 57 were supplemented by a new clause 212, which allows male sailors aged 18 to 60 to travel abroad for the period of martial law if they are going to work on seagoing vessels, inland navigation vessels as part of the crews of such vessels or to undergo practical training on vessels.

The right to cross the state border is granted to:

1) cadets of educational institutions;

2) persons traveling to work on ships as part of the crews of ships sailing to/from Ukrainian seaports and who have received the relevant education and qualifications before 24.02.2022, and graduates of educational institutions who completed their studies during martial law;

3) other persons who are sent to work on seagoing vessels, inland navigation vessels as part of the crews of such vessels and who received the relevant education and qualifications before February 24, 2022, and graduates of educational institutions who completed their studies during the period of martial law. Clause 212 of the Rules No. 57 also set out the requirements for supporting documents and the rules for obtaining some of them

- September 10. 2022

The Cabinet of Ministers of Ukraine adopted Resolution No. 1044 "On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine" dated September 10, 2022.

Rules No. 57 amended the conditions for traveling abroad during martial law for persons with disabilities and persons accompanying persons with disabilities or persons requiring constant care. The requirements for documents confirming the right of men to travel abroad have been updated, restrictions on the number of times they can cross the border have been lifted, and conditions for the timeframe for returning to Ukraine have been set.

- September 27, 2022



The Cabinet of Ministers of Ukraine adopted Resolution No. 1082 dated September 27, 2022 “On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine”. For the period of martial law, the Rules No. 57 allow crossing the state border to participate in sports events held abroad:

- 1) athletes and coaches who are members of teams of sports clubs of the highest divisions in game sports;
- 2) persons providing organizational, scientific, methodological and medical support who are included in the teams of sports clubs of the highest divisions in playing sports;
- 3) sports judges and referees.

The requirements for supporting documents based on which such persons are allowed to cross the state border, as well as the period of stay abroad, are defined.

- October 4, 2022

The Cabinet of Ministers of Ukraine adopted Resolution No. 1148 dated October 4, 2022 “On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine”. Rules No. 57 were supplemented by a new clause 213, which allows men aged 18 to 60 who are aviation personnel to travel abroad in case of martial law. The right to cross the state border is granted to:

- 1) persons who are aviation personnel and work for a resident aviation entity
- 2) persons who are aviation personnel and work or intend to be employed by a non-resident aviation entity
- 3) state aviation supervision inspectors or persons authorized to conduct inspections of the State Aviation Service;
- 4) employees of the State Aviation Enterprise “Ukraine”.

Passage across the state border is permitted if these persons are traveling to work (perform official duties) abroad or for training. Clause 213 of Rules No. 57 also sets out the requirements for supporting documents and the period of stay of the above-mentioned persons abroad.

Summarizing the legal regulation of both the ban on men aged 18 to 60 from leaving Ukraine and the exceptions to this ban, it can be noted that today one of the main regulatory sources on this issue are Rules No. 57.

Since the introduction of martial law in Ukraine, these Rules have been amended and supplemented 12 times. This process is ongoing: MPs of Ukraine, individual ministries and agencies initiate the expansion of the grounds on which men liable for military service should be allowed to travel outside Ukraine.

Among the latest initiatives, the appeal of the Commander-in-Chief of the Armed Forces of Ukraine Valerii Zaluzhnyi to the Ministry of Defence with a request to allow those who are not subject to mobilization during martial law, including students, to travel abroad, as reported on August 12, 2022 by the People's Deputy of Ukraine Yulia Hryshyna on her Facebook page, has gained resonance.

It should also be noted that the scope of restrictions on the right to leave and exceptions to it, except for the Rules No. 57, was and continues to be determined by the Administration of the State Border Guard

Service at its discretion in information messages posted on the official website of the State Border Guard Service, in particular in the section “Crossing the State Border during the Legal Regime of Martial Law. Q&A”. The information in this section is constantly updated and revised even without changes in legal regulation.

An example of such a situation is the dynamics of “regulation” of the right to travel abroad by persons reserved for the period of mobilization and wartime in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

According to the general rule set forth in clause 26 of Rules No. 57, in case of martial law in Ukraine, such persons have the right to cross the state border regardless of the reason or duration of their departure. At the same time, according to the provisions of para. 2, Part 1 of Article 23 of the Law of Ukraine “On Mobilization Preparation and Mobilization”, this right applies equally to three categories of reserved persons

1) those reserved by state authorities, other state bodies;

2) those reserved by local self-government bodies

3) those reserved by enterprises, institutions and organizations. At the same time, unofficial explanations posted in the section “Crossing the State Border during the Legal Regime of Martial Law. Q&A” on the official website of the State Border Guard Service until August 8, 2022, which were also used by the state border control authorities, all three categories of reserved persons had the right to cross the state border only in case of an official business trip, although such a restriction on the basis for departure is not provided for in the Rules No. 57.

On August 8, 2022, the information in the section “Crossing the State Border during the Legal Regime of Martial Law. Q&A”.

According to the new position of the State Border Guard Service, as of August 16, 2020, the conditions for departure for reserved persons vary.

Those reserved for the period of mobilization and wartime by public authorities and other state bodies (civil servants) have the opportunity to travel abroad not only on business trips but also on vacation. For those reserved by enterprises and local governments, the only reason for traveling abroad is a business trip.

Another example of discretionary regulation is the explanations provided by the State Border Guard Service, based on which officials at checkpoints make decisions on border crossings by MPs and male students studying abroad.

Thus, although in accordance with clause 26 of Rules No. 57, MPs of Ukraine have an unlimited right to travel outside Ukraine as persons who, in accordance with Part 1, Article 23 of the Law of Ukraine “On Mobilization Preparation and Mobilization”, are not subject to call-up for military service during mobilization, according to an explanation posted on the official website of the State Border Guard Service, they have the right to travel if they have duly certified copies of documents certifying the fact of traveling abroad on a business trip. In other cases, permission to leave is denied.

Conversely, although the Rules No. 57 do not provide for the right of male students studying abroad to travel outside Ukraine to study, their departure was allowed on the basis of the same explanations of the State Border Guard Service, provided they provided supporting documents and if they were in Ukraine at the time of the mobilization and were unable to travel outside Ukraine in accordance with the established procedure to continue their studies. This practice was discontinued in September 2022, and the explanations of the State Border Guard Service were changed to include information that students do not have the right to travel abroad in accordance with the provisions of Article 23 of the Law of Ukraine “On Mobilization Preparation and Mobilization” and clause 26 of the Rules No. 57.

At the request of the National Agency dated July 7, 2022 No. 22-03/15643- 2215 to provide information on the list of documents that, in accordance with clause 26 of the Rules No. 57, give the right to cross the state border to citizens liable for military service who are not subject to call-up for military service during mobilization, separately for each category of persons in accordance with Article 23 of the Law of Ukraine “On Mobilization Preparation and Mobilization”, the Administration of the State Border Guard Service in a letter dated July 12, 2022 No. 23-20410/0/6-2216 noted that the legislation does not impose on the State Border Guard Service the obligation to maintain an exhaustive list of documents required for crossing the state border, and the Administration of the State Border Guard Service does not formulate a state policy on the issues of traveling abroad by Ukrainian citizens under the legal regime of martial law in Ukraine.

## **2. Grounds for imposing restrictions on the right and exceptions to it**

Currently, issues related to the crossing of the state border of Ukraine, including by persons liable for military service under martial law, are regulated by the following legal acts:

- Constitution of Ukraine;
- Law of Ukraine “On the Procedure for Departure from Ukraine and Entry into Ukraine by Citizens of Ukraine”;
- Law of Ukraine “On the Legal Regime of Martial Law”;
- Decree of the President of Ukraine No. 64/2022 dated February 24, 2022 “On the Introduction of Martial Law in Ukraine”;
- Law of Ukraine No. 2102-IX dated February 24, 2022 “On Approval of the Decree of the President of Ukraine “On the Introduction of Martial Law in Ukraine”;
- Decree of the President of Ukraine No. 69/2022 of February 24, 2022 “On General Mobilization”;
- Law of Ukraine dated March 3. 2022 No. 2105-IX “On Approval of the Decree of the President of Ukraine “On General Mobilization”;
- Law of Ukraine “On Mobilization Preparation and Mobilization”;
- Law of Ukraine “On Border Control”;
- Law of Ukraine “On the State Border of Ukraine”;
- Rules for Crossing the State Border by Citizens of Ukraine approved by the Cabinet of Ministers of Ukraine on January 27, 1995, No. 57;

- Procedure for establishing a special regime of entry and departure, restriction of freedom of movement of citizens, foreigners and stateless persons, as well as movement of vehicles in Ukraine or in certain areas where martial law has been introduced approved by Resolution of the Cabinet of Ministers of Ukraine No. 1455 dated December 29, 2021.

[..]

## **II. ILLEGAL SCHEMES AND CORRUPTION RISKS IN THE PROCEDURES FOR LEAVING UKRAINE BY MEN LIABLE FOR MILITARY SERVICE UNDER MARTIAL LAW**

As of September 1, 2022, the National Agency identified 8 most common ways (schemes) for men liable for military service to “get around” the ban on traveling outside Ukraine under martial law. Some of them may be accompanied by corruption risks, which will be described below, and some of them are implemented through illegal acts or conditionally legal mechanisms that are not related to corruption, but in general indicate significant shortcomings in the system of control over the crossing of the state border by men aged 18 to 60, as well as the fact that the purpose of the ban on traveling outside Ukraine as it was intended is not achieved

### **Scheme 1: Illegal crossing of the state border:**

- crossing the state border by persons liable for military service outside of state border crossing points and control points without passing border control by authorized officials of the state border protection unit;
- crossing the state border using their passports of foreign citizens;
- departure of persons liable for military service from Ukraine at state border crossing points and control points with the assistance of officials of state border protection units without the implementation of mandatory border control procedures;
- departure to the territory not controlled by Ukraine by crossing the demarcation line with further departure abroad through the temporarily occupied territory of the Autonomous Republic of Crimea and the territory of the Russian Federation.

### **Scheme 2. Use of forged or corruptly obtained documents with information on the deregistration of a person liable for military service:**

- a military ID card with marks on the person's removal from military registration;
- a certificate of military medical commission on unfitness for military service with subsequent removal from the military register.

### **Scheme 3: Use of forged documents on the status of a student of professional pre-university and higher education abroad.**

### **Scheme 4. Use of forged documents confirming the status of a father with many children.**

### **Scheme 5. Use of forged or corruptly obtained documents allegedly confirming the need for treatment (surgery) or medical rehabilitation abroad as a result of the military aggression of the Russian Federation.**

**Scheme 6: Traveling outside of Ukraine based on letters from state authorities to the State Border Guard Service with requests to assist persons liable for military service in crossing the state border.**

**Scheme 7. Departure from Ukraine through the Shliakh system as a driver who transports medical and humanitarian aid cargo by road for the needs of the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine, as well as the population of Ukraine without the purpose of delivering such cargo, but in their own interests (for example, taking family members abroad, visiting family abroad, purchasing foreign vehicles, ordinary business trips, etc.)**

**Scheme 8: Departure from Ukraine as a driver of a vehicle of a business entity licensed to carry out economic activities for the international transportation of goods and passengers by road, the information about which is entered into the Shliakh information system. Departure is carried out according to the “second driver” scheme – two drivers leave Ukraine in a passenger vehicle (bus), and the vehicle returns to the territory of Ukraine driven by only one driver.**

The National Agency has identified corruption and other risks that allow most of these schemes to be implemented, and describes their causes and conditions that increase these risks below in this study.

## **1. TYPICAL CORRUPTION AND OTHER RISKS IN THE PROCEDURES FOR CROSSING THE STATE BORDER BY MEN LIABLE FOR MILITARY SERVICE AGED 18 TO 60**

### **RISK 1**

Abuse of office, extortion and receipt of undue advantage by officials of the Ministry of Infrastructure or regional military administrations when making decisions on the departure of persons liable for military service as drivers of humanitarian and other cargoes from Ukraine, using the Shliakh information system or making such decisions in conditions of conflict of interest.

Abuse by persons authorized to perform the functions of the state or local self-government of their powers or taking actions in conditions of a real conflict of interest to assist men liable for military service in traveling outside Ukraine under the scheme of humanitarian cargo drivers.

Obtaining an unlawful benefit by an official of a charitable foundation, public organization, or other legal entity of private law for assisting a person liable for military service in “confirming the status of a volunteer” for his travel abroad as a driver of humanitarian cargo using the Shliakh information system.

According to clause 7 of the Resolution of the Cabinet of Ministers of Ukraine dated March 3, 2022 No. 194 “Some Issues of Reservation of Persons Liable for Military Service under the Legal Regime of Martial Law” (as amended before May 26, 2022), the Ministry of Infrastructure and regional military administrations were authorized to make decisions on reservation of drivers liable for military service for medical and humanitarian aid.

The regulation introduced by this resolution created numerous corruption risks, as the criteria and procedure for making decisions on the reservation of drivers liable for military service were not regulated. This allowed the Ministry of Infrastructure and regional military administrations to exercise wide discretion and reserve men liable for military service at their own discretion.

Individuals authorized to perform state functions used the powers granted to them and assisted men liable for military service in traveling abroad for selfish reasons.

For example, in mid-March, the Head of the Chernivtsi Regional Military Administration sent a letter to the Head of the State Border Guard Service of Ukraine asking him to facilitate the recommended list of persons from Bukovyna to cross the state border of Ukraine to Romania to the former Head of the Regional Council I. Muntian and the deputy of the Chernivtsi City Council V. Prodan, who later allegedly participated in a scheme to import and appropriate ambulances donated as humanitarian aid from Italy by a charitable organization. Criminal proceedings were registered on the facts of illegal actions with humanitarian aid on April 20, 2022 No. 1202226000000114.

Another example relates to the People's Deputy of Ukraine Petiovka V. V., who three times in March, May and June 2022 addressed the Head of the Zakarpattia Regional State Administration – Chief of the Regional Military Administration with a deputy appeal to grant permission for his son Petiovka A. V. to travel outside Ukraine. In the deputy appeals, the need to grant permission was justified by the need to receive and deliver humanitarian goods for the needs of the Armed Forces of Ukraine. However, Petiovka A. V., who has travelled outside Ukraine 5 times since April 2022, made such trips three times for his own purposes, and not for the purpose of transporting humanitarian aid. In May and June 2022, the said MP also addressed deputy appeals to the head of the Zakarpattia Regional Military Administration to grant permission to travel outside Ukraine to the father of his son's wife and his cousin Baloha I. I.

Moreover, there were cases when regional military administrations facilitated men to travel abroad not as part of the procedure for reserving military drivers, but on the basis of “petitions” drawn up in letters from the heads of regional military administrations to the State Border Guard Service, although the law did not provide for such a basis for traveling abroad.

For example, in a letter dated May 6, 2022 No. 55/40-38-2505/2022, the head of the Khmelnytskyi Regional Military District in response to an appeal from the MP V. Bondar did not approve the reservation of persons whom the MP requested to be reserved as drivers of humanitarian cargo, since such persons were registered in the military for military specialties that are in short supply for the Armed Forces of Ukraine. At the same time, referring to the fact that “in some cases, a one-time permission to cross the border is granted on the basis of substantiated requests from individuals and legal entities by a letter from the regional military administration to the State Border Guard Service of Ukraine, which is entered into the Shliakh information system”, the Khmelnytskyi Regional Military Administration allowed a one-time border crossing, although the law did not provide for such a “permission” and the “permission” itself was not a legal basis for traveling abroad.

At first glance, the risks in the procedure for reserving drivers of humanitarian aid cargoes should have been partially minimized with the adoption on May 20, 2022 of Resolution No. 615 “On Amendments to the Resolutions of the Cabinet of Ministers of Ukraine of January 27, 1995 No. 57 and March 3, 2022 No. 194” by the Cabinet of Ministers of Ukraine (entered into force on May 26, 2022), which:

- 1) excluded clause 7 from the Resolution of the Cabinet of Ministers of Ukraine No. 194 dated March 3, 2022 “Some Issues of Reservation of Persons Liable for Military Service under the Legal Regime of Martial Law”, as a result of which permission for drivers to travel abroad was no longer granted through the procedure of “reservation” of persons liable for military service;

2) added the procedure for crossing the state border by drivers liable for military service who transport humanitarian goods is regulated in the Rules No. 57 (new clause 28 was added).

However, despite such improvements, the amendments to the Rules No. 57 retained the powers of the Ministry of Infrastructure of Ukraine and regional and Kyiv city military administrations to make decisions on drivers' departure from Ukraine, while also defining the grounds for making such decisions and the conditions for their revocation.

Therefore, the legislation still allows officials of the regional military administrations and the Ministry of Infrastructure of Ukraine to demand and receive undue benefits for making/not making relevant decisions or taking actions, or making decisions in conditions of conflict of interest, as the safeguards provided by law to prevent abuse are purely formal and do not work in practice.

Moreover, the possibility of corruption abuses by officials of State Service of Ukraine for Transport Safety when entering information and administering the Shliakh information system, as well as by officials of the State Border Guard Service of Ukraine who are involved in the mechanism of travel abroad for conscripted drivers of humanitarian cargoes, remains.

Online resources report that social media still advertise “legal departure through the Shliakh system”, offering to register anyone for 1-2 thousand US dollars. Moreover, due to the increase in the number of channels offering the implementation of this scheme, there is a decrease in the cost of departure from 2.0 to 1.7 thousand US dollars.

It should be noted that a significant number of men use the opportunity to cross the state border of Ukraine not to deliver humanitarian aid or goods for the Armed Forces of Ukraine.

Signs that may indicate such cases are, in particular, crossing the state border in a car and staying abroad for more than two weeks, leaving with his wife and children, returning by bus or rail or on foot, returning in a foreign car that is subsequently registered to a private person, etc.

The analysis of the circumstances of crossing the state border by persons authorized to perform the functions of the state or local self-government, including MPs of Ukraine, in the status of drivers of humanitarian cargo or cargo for the Armed Forces of Ukraine also gives reasonable grounds to assume that they mostly used the opportunity to solve private issues (to take or pick up family, pick up a car, vacation, other private purposes).

Among individuals who benefited from the scheme for private purposes is, for example, Oleksandr Hladkovskyi, former First Deputy Secretary of the National Security and Defence Council of Ukraine. Hladkovskyi was repeatedly reserved by regional military administrations, including the Khmelnytskyi Regional Military Administration, between March and June 2022 as a driver of humanitarian cargo. During this period, he crossed the state border three times in cars of different brands registered to different individuals (individuals and legal entities), and each time he returned on foot. Twice he returned to Ukraine after reservation had expired.

At the request of the National Agency, the Khmelnytsky Regional Military Administration provided copies of documents on the reserving drivers of humanitarian, medical and cargo for the needs of the Armed Forces of Ukraine for the period from March 7, 2022 to May 20, 2022. However, the provided documents do not



contain copies of the orders on reserving Hladkovskiy O. V., as well as the documents based on which such orders could be made.

The former head of the Cherkasy Regional State Administration, Skichko O. O., despite the fact that he was reserved as an inspector of the mobilization department of the Cherkasy Regional Military Administration, before the birth of his daughter, began to travel abroad through the Shliakh system at the request of a company partially owned by his wife. The company requested that Mr. Skichko travel abroad for 3 months as a state representative. At the same time, the purpose of the trip was not to transport humanitarian goods, as provided for in clause 28 of Rules No. 57, but for the company's management to negotiate with representatives of European companies on further cooperation in obtaining panels for housing construction in Ukraine.

According to statements of the deputy of the Kyiv Regional Council Samoilenko T. V., the Kyiv Regional Military Administration granted permission to leave Ukraine to citizens Somyk O. S. and Yahotin R. S. According to the information provided by the Odesa Customs, Somyk O. S. returned to the territory of Ukraine as a driver of a vehicle using the "green corridor" lane without a written declaration. Yahodir R. V. crossed the state border twice and returned to Ukraine as a passenger using the "green corridor" lane without declaring humanitarian aid.

At the request of MP Zadorozhnyi M. M., the Sumy Regional Military Administration granted permission to leave Ukraine to citizen V. Kobzar for the alleged transportation of vehicles and humanitarian aid for the Armed Forces of Ukraine and the affected population of Sumy region. However, upon returning to Ukraine, V. Kobzar declared the foreign vehicle as having been purchased for his own needs. At the request of another MP, Ananchenko O. M., V. Kobzar was re-granted permission to leave Ukraine with the same justification. During customs clearance at the entrance to Ukraine, V. Kobzar again declared a foreign vehicle purchased for personal use.

According to the decision of the Kyiv Regional Military Administration, citizens O. Kuryk, A. Beliaiev, Y. Vovkotrub and O. Chornyi were granted permission to travel abroad to deliver humanitarian aid and vehicles for the needs of the Armed Forces of Ukraine. However, in early June 2022, these individuals imported 5 cars to Ukraine, which were subsequently registered to private individuals or resold.

The Order of the Ministry of Infrastructure dated May 31, 2022 No. 375, based on the justification of a charitable organization, granted permission to travel abroad to provide food aid to the Head of the Main Department of the State Labour in Kyiv region Semchuk R. I., who, having left Ukraine on June 13, 2022, returned on June 29, 2022 by passenger train, which excludes the possibility of delivering humanitarian cargo in the status of a vehicle driver.

The National Agency has also identified 59 people who, with the assistance of the heads of regional military administrations and the head of the Ministry of Infrastructure of Ukraine, left Ukraine and have not returned as of July 28, 2022

The most massive departure of such persons took place based on their entry into the Shliakh system by an official of the Lviv Regional Military Administration (38 persons out of the currently identified). Among these persons is Portnov I. A. (son of former MP and Deputy Head of the Presidential Administration of Ukraine Portnov A. V.), who left Ukraine on March 28, 22, with a driver and has not returned, although he was obliged to return on April 22, 2022.

The National Agency has identified 12 charitable foundations and public organizations that, with the assistance of the Lviv Regional Military Administration, are likely to be involved in organizing the illegal crossing of the state border and the non-return of men liable for military service to Ukraine.

According to the statistics provided by State Service of Ukraine for Transport Safety, the number of entries in the Shliakh system for drivers in respect of whom decisions were made by regional military administrations as of September 7, 2022 is more than 95,755 lines (Technically, one line contains an entry for one last name. The Shliakh system may contain several lines with the same last name. This means that several decisions on traveling abroad were made in relation to the same person at different times).

In addition to the personal dishonesty of officials and the desire to satisfy their private interests, the National Agency identified 7 other reasons and conditions – corruption-prone factors in legislation and shortcomings in the organization of processes – that together create corruption risks in the procedure for traveling abroad as a driver of humanitarian cargo through the Shliakh information system:

**1. Unclear and ineffective in practice criteria for making decisions on whether drivers may travel abroad, which allow officials to make decisions arbitrarily.**

In accordance with clause 28 of Rules No. 57, the decision to leave Ukraine for drivers engaged in the transportation of medical and humanitarian aid cargo is made by the Ministry of Infrastructure or regional or Kyiv city military administrations, provided that there are appropriate justifications for the volume of cargo and the number of vehicles required for its transportation in letters from any of the following bodies, enterprises, institutions, organizations, establishments:

- military, law enforcement agencies
- military administrations;
- medical institutions;
- senders or recipients of humanitarian aid.

Thus, officials of the Ministry of Infrastructure or regional and Kyiv city military administrations should be guided by only two criteria when making decisions:

- volume of cargo
- number of vehicles.

Such officials must assess whether the volume of cargo declared in the justification correlates or corresponds to the number of vehicles required for its transportation.

However, these criteria are not really effective and sufficient to make an informed decision.

First, there are no requirements for the units of measurement in which the volume of cargo should be determined. Second, the number of vehicles alone – without specifying the model/brand of the vehicle and its technical characteristics – will not allow to assess whether such a number of vehicles is necessary to transport the declared volume of cargo.

Third, to make a decision, it is necessary to understand how many trips need to be made and by how many drivers in order to transport the stated volume of cargo by the specified number of vehicles. However, such information is not provided in the justification.

To adequately assess the situation according to these criteria, it seems that a solid methodology based on calculations is needed. Officials of the Ministry of Infrastructure or regional and Kyiv city military administrations do not have sufficient qualifications (expertise) and the necessary additional information to objectively assess the criteria provided for in clause 28 of Rules No. 57.

However, there is no methodology and clear criteria for assessing the compliance of the volume of cargo with the number of vehicles, and internal procedures on this issue, according to information received from the Ministry of Infrastructure and certain regional military administrations, have not been adopted.

Thus, the information in the applicant's justifications is assessed arbitrarily and formally, with officials making decisions at their own discretion.

A separate problem is that there are no regulatory criteria for deciding on the duration of a driver's permit to travel abroad. Pursuant to clause 28 of Rules No. 57, such a decision may be made for a period of up to 6 months based on the submitted justification only with respect to the volume of cargo and the number of vehicles required for its transportation. There is no requirement for the applicant to justify the terms of cargo transportation.

The discretion of officials of the Ministry of Infrastructure, regional and Kyiv city state administrations in determining the duration of travel permits abroad creates conditions for abuse, as a result of which men liable for military service can obtain the right to travel for a much longer period than is objectively necessary and use this right mainly for personal purposes. For example, within a 6-month permit, such persons may travel to their destination only once, spending 1 week, and use the rest of the permit for personal travel.

It is worth noting that the practice of the Ministry of Infrastructure is to issue travel permits for a period of 3 months for all applications. There is no justification for this duration in the orders of the Ministry of Infrastructure.

**EXAMPLES:**

1. The Order of the Ministry of Infrastructure dated May 30, 2022 No. 370, in accordance with clause 28 of Rules No. 57, granted permission to travel outside Ukraine for a period of 3 calendar months to 16 male drivers at the request of the Volunteer Formation of the Kyiv Territorial Community "Svoboda" in connection with the performance of tasks related to the transportation of medical supplies, medicines and food to meet the priority needs of the Volunteer Formation, whose fighters are defending the eastern territories of Ukraine. The documents submitted to the Ministry of Infrastructure do not provide any justification for the volume of cargo and the number of vehicles, as well as the required duration of trips, number of drivers, etc.
2. The Order of the Ministry of Infrastructure dated June 1, 2022 No. 377, in accordance with clause 28 of Rules No. 57, granted permission to travel outside Ukraine for a period of 3 calendar months to a male driver at the request of LLC "Synergy OIL" in connection with the performance of tasks related to the transportation of humanitarian aid and medical supplies. The application provides information on two vehicles that will be needed for the transportation of goods, but there is no

justification for the volume of cargo, as well as the number of trips / duration of cargo transportation activities in the documents submitted to the Ministry of Infrastructure.

## **2. Lack of requirements to confirm the information provided by applicants in their applications and in their justifications.**

Clause 28 of Rules No. 57 does not stipulate how the information referred to by applicants should be confirmed and how the bodies authorized to make decisions should verify it.

Given the volume of applications received by the Ministry of Infrastructure and regional military administrations, officials authorized to review applications and prepare draft decisions do not have the resources to verify the accuracy of the information used to substantiate the applications. There are also no operational tools to verify certain information.

For example, in accordance with clause 28 of Rules No. 57, the decision to allow drivers to travel abroad is based on justification in letters from, among others, senders or recipients of humanitarian aid.

During the period of martial law, there are no tools to verify whether a charitable foundation, public organization, individual entrepreneur or other legal entity is a sender or recipient of humanitarian aid: the Ministry of Social Policy suspended the maintenance of the Unified Register of Recipients of Humanitarian Aid on February 24, 2022, the provisions of the legislation defining the categories of recipients of humanitarian aid have changed and are not currently consistent with each other.

Consequently, the Ministry of Infrastructure, regional and Kyiv city military administrations have limited opportunities to ensure that a charitable foundation, NGO or other applicant applying for a permit to drive humanitarian cargo abroad is actually engaged in the provision of humanitarian aid and will use the permit for the stated purpose. At the request of the National Agency to provide information on how the Ministry of Infrastructure verifies the status of “recipient” and “sender” of humanitarian aid, the response was that the Ministry of Infrastructure does not perform verification functions in these matters. This factor leads to the fact that the accuracy of the information provided by applicants is not verified, and officials of the Ministry of Infrastructure, regional and Kyiv city military administrations can be guided by their own discretion when making decisions, including in order to satisfy their private interests.

## **3. Rules No. 57 do not require confirmation of the driver's right to drive vehicles.**

This information is not provided for in the set of driver data entered into the Shliakh information system – only the last name, first name, patronymic, and passport data are included.

## **4. The provisions of clause 28 of Rules No. 57 allow for an ambiguous interpretation of which entity the Ministry of Infrastructure, regional and Kyiv city state administrations have the right to decide on drivers' travel abroad at the request of which entity**

Within the meaning of clause 28 of Rules No. 57, the decision to leave Ukraine for drivers engaged in transportation provided for in this clause is made by the Ministry of Infrastructure or regional, Kyiv city military administrations, provided that there is a corresponding justification in letters from any of the following bodies, enterprises, institutions, organizations, establishments:

- military, law enforcement agencies

- military administrations;
- medical institutions;
- senders or recipients of humanitarian aid.

The meaning of the provision can be understood in such a way that the legislation does not limit the list of entities whose requests are used to make decisions on the departure of drivers from Ukraine. It is also possible to assume that only military law enforcement agencies, military administrations, medical institutions or senders/recipients of humanitarian aid can apply to the Ministry of Infrastructure, regional and Kyiv city military administrations for permission to allow drivers to leave Ukraine.

The ambiguity of the wording, coupled with the formal requirements for the substantiation on which the decision is based, gives officials of the Ministry of Infrastructure, regional and Kyiv city military administrations too much discretion when considering relevant applications, including arbitrary decisions on the departure of drivers abroad at the request of any entity.

**EXAMPLE:**

Order of the Ministry of Infrastructure No. 366 dated May 29, 2022 granted permission to travel outside Ukraine to six drivers, whose proposals were submitted by LLC "ICECOM PLUS" in connection with the company's performance of tasks related to the transportation of medicines and medicines by order of another legal entity – LLC "WORLD COURIER UKRAINE". From the materials analysed by the National Agency, it appears that although the company's request is justified by the need to transport medicines, neither the applicant company nor LLC "WORLD COURIER UKRAINE", on the basis of which the Ministry of Infrastructure granted permission for drivers to travel abroad, belong to medical institutions or senders/receivers of humanitarian aid.

**5. No deadline set for the Ministry of Infrastructure, regional and Kyiv city military administrations to make decisions on drivers' travel abroad. No provision for refusing a decision and its justification.**

This factor can be used by officials to delay decision-making and demand unlawful demands for speeding up the decision-making process.

**6. Lack of proper control over the processing of applications, preparation of draft decisions, and entering information about the driver into the Shliakh information system.**

Pursuant to clause 28 of Rules No. 57, drivers transporting medical and humanitarian cargo across the state border are allowed to cross the border only if they have the relevant decisions to leave Ukraine and if information about the person is available in the Shliakh information system, which is administered by State Service of Ukraine for Transport Safety.

Based on the information provided by State Service of Ukraine for Transport Safety, the Shliakh system enters such information as, in particular, the "final date of the driver's reservation". This date is determined in accordance with the period for which the decision to travel outside Ukraine has been made.

Using the example of the processes implemented in the Ministry of Infrastructure, it was found that 4 officials have access to the Shliakh system – 3 chief specialists and 1 head of department. The powers of these persons are defined by a separate order of the Deputy Minister for Digital Development, Digital

Transformation and Digitalization of Ukraine and are exercised using a qualified electronic signature. The list of responsible persons was sent to State Service of Ukraine for Transport Safety.

Upon requesting what levels and tools of control the Ministry of Infrastructure has implemented to control (verify) the accuracy and completeness of the information entered into the Shliakh system about a person in respect of whom a decision to leave Ukraine has been issued, the National Agency received a response that the Ministry of Infrastructure does not perform verification and control functions in relation to these issues. Thus, the Ministry of Infrastructure does not have a second level of control over the actions of responsible persons. A similar question was asked selectively to two regional military administrations – Vinnytsia and Ivano-Frankivsk. The answers received also do not indicate the introduction of additional levels of control over the activities of officials authorized to enter information into the Shliakh system. This factor leads to the risk that information may be entered into the Shliakh system that does not comply with decisions made by the Ministry of Infrastructure and regional military administrations and improves the ability of drivers to travel outside Ukraine.

**EXAMPLE:**

Order of the Ministry of Infrastructure No. 366 dated May 29, 2022, in accordance with clause 28 of Rules No. 57, granted permission to 13 male drivers to travel outside Ukraine. The order does not specify the validity period of the permit, but the information on the final date of the drivers' reservation has been entered into the Shliakh system. Thus, each driver was unreasonably allowed to travel abroad for 3 months.

**7. Drivers' compliance with the purpose and terms of traveling abroad is not checked or controlled by any government agency.**

In order to prevent illegal practices of drivers traveling abroad, the Ministry of Infrastructure, regional and Kyiv city military administrations are authorized under clause 28 of Rules No. 57 to cancel their decision to allow drivers to travel abroad in case of a change in the purpose of travel or violation of the terms of stay abroad.

In practice, this provision does not work: according to information received from the Ministry of Infrastructure and some regional military administrations, compliance with the purpose and terms of travel abroad by drivers is not checked or controlled.

For example, the Administration of the State Border Guard Service responded to the National Agency's request that “the legislation does not define the task of the State Border Guard Service of Ukraine to monitor compliance with the terms of stay abroad and mandatory control of the purpose of travel abroad by drivers subject to military service”. The Ministry of Infrastructure, in response to a similar request, stated that it “does not exercise the function of verification and control over the issues outlined in the Request”. There is no exchange of information between the regional military administrations, the Ministry of Infrastructure, the State Border Guard Service, and the State Customs Service of Ukraine on the compliance of drivers with the purpose of traveling abroad, including the declaration of humanitarian aid upon returning to Ukraine.

**RISK 2**

**Obtaining an unlawful benefit by official of business entity licensed to carry out economic activities for international transportation of passengers by road for assistance in the departure of a person liable for military service outside Ukraine as a bus driver using the Shliakh information system.**

For the period of martial law, business entities may obtain a license to carry out international passenger transportation by bus. The process of applying for and obtaining a license is carried out through authorization in the Shliakh information system<sup>26</sup>.

According to clause 29 of Rules No. 57, bus drivers belonging to licensees who are authorized in the Shliakh system have the right to travel abroad for international passenger transportation for up to 45 days.

Departure is permitted if the driver's information is entered into the Shliakh information system and the vehicle used to cross the border is a means of conducting the licensee's business with a gross vehicle weight of 3,500 kilograms or more.

A condition for the realization of a corruption risk is created by the fact that, according to clause 29 of Rules No. 57, two drivers are allowed to travel on one bus of the licensee carrier. One of them is actually a driver, and the other may be entered into the Shliakh system as a driver for undue benefit in order to travel abroad for personal purposes.

The implementation of this scheme by private transportation companies was described, in particular, in a report by the Security Service of Ukraine in Volyn region in May of this year. According to the law enforcement agency, in the scheme that was exposed and eliminated, the fake drivers did not return to Ukraine after crossing the border.

According to the statistics provided by State Service of Ukraine for Transport Safety, the number of records in the Shliakh system for drivers in respect of whom licensees' applications were submitted as of September 7, 2022 is more than 459,229 lines.

The National Agency has identified 5 reasons and conditions that together give rise to this corruption risk:

1. Clause 29 of Rules No. 57 does not require confirmation of labour, civil or other legal relations between the licensee carrier and the driver whose information is entered into the Shliakh information system.

2. Rules No. 57 do not require confirmation of the driver's right to drive vehicles of the relevant category.

Information on this is not provided for in the set of driver data entered into the Shliakh information system – such data includes only the last name, name, patronymic and passport data.

3. State authorities do not effectively monitor compliance with the purpose of the driver's trip.

As a safeguard against driver abuse, clause 29 of Rules No. 57 provides that if the purpose of the trip is not confirmed, authorized officials of the State Border Guard Service shall refuse to allow the driver to cross the state border in accordance with the procedure set out in Part 1, Article 14 of the Law of Ukraine "On Border Control". In practice, however, at the state border crossing points, State Border Guard Service officials only check the driver's identity against the information entered into the Shliakh system, which is insufficient to confirm the purpose of the trip, since it does not even provide information about the driver's right to drive. The legislation does not specify how exactly the State Border Guard Service officials should check the purpose of the trip. The Risk Profile "Illegal Crossing of the State Border by Citizens of Ukraine Liable for



Military Service” approved by the Order of the State Border Guard Service Administration No. 213ah dated April 29, 2022 does not contain tools for such verification.

At the request of the National Agency, the Administration of the State Border Guard Service informed that the legislation of Ukraine does not define the task of the State Border Guard Service to mandatorily control the purpose of traveling abroad by drivers with military service.

Thus, the safeguard against abuse in the form of refusal to cross the border if the purpose of the bus driver's trip is not confirmed is essentially formal and ineffective in practice.

4. State authorities do not effectively monitor compliance with the deadlines for drivers to stay abroad.

Another safeguard that should minimize the possibility of abuse is the liability of the licensee carrier in case of overstaying by drivers, as defined in clause 29 of Rules No. 57. State Service of Ukraine for Transport Safety may suspend such a carrier's access to the Unified Information System for 3 months. At the same time, according to information received from State Service of Ukraine for Transport Safety and the Administration of the State Border Guard Service, neither of these bodies monitors compliance with the terms of stay abroad by drivers subject to military service, citing the lack of relevant legal grounds in the legislation. In response to the National Agency's request, State Service of Ukraine for Transport Safety also informed that the law does not currently provide for interaction between State Service of Ukraine for Transport Safety and other public authorities on issues of compliance with the terms of stay abroad by drivers of licensees' vehicles. State Service of Ukraine for Transport Safety did not receive any information from the competent authorities on the established facts of violation of the terms of stay of the licensee's vehicle drivers abroad for the period from May 20, 2022 to July 13, 2022. The licensees' access to the Unified Complex of Information Systems was not terminated upon exceeding the terms of their drivers' stay abroad in accordance with clause 29 of Rules No. 57. Thus, the safeguard against abuse in the form of control over the terms and liability of licensees is currently essentially formal and ineffective in practice. Additionally, it should be noted that the powers of State Service of Ukraine for Transport Safety to terminate the licensee's access to the Unified Complex of Information Systems are discretionary – the Service may, but is not obliged to terminate such access. Pursuant to clause 29 of Rules No. 57, the decision to terminate the licensee's access to the Unified Complex of Information Systems of State Service of Ukraine for Transport Safety is made by a commission, which may include representatives of the Ministry of Infrastructure and other state authorities, and approved by an order of the Head of State Service of Ukraine for Transport Safety. At the same time, the law does not specify conditions that would limit the discretion of State Service of Ukraine for Transport Safety and determine the criteria for making a decision to terminate access, and the procedure for the activities of the relevant commission is not defined by the order of State Service of Ukraine for Transport Safety, which creates additional corruption risks in the activities of State Service of Ukraine for Transport Safety officials and the commission.

5. The Shliakh information system is in trial operation: the procedure for its functioning and administration, the rights of system users, levels of access to information and its processing are not defined in the regulations; a comprehensive information security system has not been implemented.

### **RISK 3**

**Abuse, satisfaction of private interests by officials of state bodies in connection with sending letters to the Administration of the State Border Guard Service requesting permission to travel outside Ukraine for men liable for military service who are not reserved for the period of mobilization and wartime.**

The scheme is implemented in the following way: enterprises, institutions, organizations of any form of ownership, and individuals apply to the ministry or central government body that implements state policy in the area to which the issue belongs, justifying the need to travel abroad. The relevant government agency sends a letter to the State Border Guard Service Administration with a request “to assist” certain men during crossing border control. Such letters usually contain information about the border crossing point the man intends to use, his passport details, the expected date of departure, return and the reason for the need to travel abroad. Upon receipt of such a letter, the Head of the State Border Guard Service brings the information to the attention of the State Border Guard Service officials at the state border crossing point and instructs them to grant the man or group of men specified in the application a permit to cross the border.

In some cases, the reasons for departure are justified by the needs and benefits for the state or civil service, international cooperation, in others – by the personal circumstances of the citizens who need permission to leave or the needs of Ukrainian communities abroad.

At the same time, the degree of detail of the justification and confirmation of the relevant circumstances varies from request to request, and their assessment is subject to the absolute discretion of both the authorities receiving the request for assistance and officials of the State Border Guard Service Administration, which creates favourable conditions for corruption.

It should also be added that no state body monitors the return to Ukraine of men who have been assisted in this way in traveling abroad, and this issue is not regulated in any way in the legislation.

The National Agency has conducted a sample study of the practice of some ministries of using the “letter tool” to assist men liable for military service who are not employees of ministries in traveling abroad outside the scope of regulation introduced by Rules No. 57.

For example, between March 1, 2022 and July 20, 2022, the Ministry of Culture and Information Policy of Ukraine applied to the Administration of the State Border Guard Service for permission to travel abroad for more than 2,000 people, the Ministry of Foreign Affairs of Ukraine – more than 300 people, and the Ministry of Justice of Ukraine – 19 people. The number of non-employees who were assisted in traveling abroad by the Ministry of Social Policy of Ukraine, the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine, and the Ministry of Economy of Ukraine, according to the documents studied, ranges from 1 to 8 people. The Ministry of Youth and Sports of Ukraine provided information only on business trips of its employees.

For example, in May-July 2022, the Ministry of Culture and Information Policy of Ukraine requested permission from the State Border Guard Service for the following people to travel outside Ukraine:

- designer Frolov I. V. and director Dvizhon V. to participate in the art event – Swiss premiere of short fashion film FROLOV STUD and to take part in panel discussion at Pink Apple Film Festival in Zurich. The duration of the stay abroad was approximately 9 days;

- citizens Fedorov V. M. and Siedovosov R. O. for the purpose of “holding charitable cultural events in the Netherlands in support of Ukraine and spreading the culture of Ukraine”. Their abroad stay lasted approximately more than 1 month;
- artist of State Enterprise “State Circus Company of Ukraine” for a tour as part of the circus program of the State Enterprise “Molodist” in the Republic of Finland with the aim of “promoting Ukrainian circus culture”. The abroad stay is estimated to last more than 5 months;
- group of clergymen and delegates of the Seventh-day Adventist Church “to participate in the 61st Congress of the World Church of Seventh-day Adventists”. Their stay abroad was approximately 20 days;
- citizen Bryzhko R. I. for the purpose of “passing the entrance exam to the State University of Music and Performing Arts Mannheim” in Germany;
- citizens O. Shpudeiko and M. Kolomiets for the purpose of “implementing the project “Musical Offering” as a unique product that has no analogues”, with a period of stay abroad from May 20, 2022 to “no later than July 1, 2022”;
- employee of the State Enterprise "State Academic Variety and Symphony Orchestra of Ukraine", A. Churikov, for the purpose of "participation in a tour of German cities";
- citizen O. Pod for the purpose of “participation in the international sand sculpture competition Summer signs in Latvia”;
- citizen I. Bondarenko for the purpose of “performing at international festivals and concerts in Europe”.

Between June and July 2022, the Ministry of Justice of Ukraine applied to the State Border Guard Service to allow them to travel outside Ukraine:

- 4 students of the National University of Kyiv-Mohyla Academy to participate in the world stage of the John H. Jacson Moot Court Competition on WTO Law in Switzerland as “the first team that in the 20-year history of participation in the competition became the first Ukrainian team to win the final of the European rounds and won the right to represent Ukraine at the world stage”;
- President of the Notary Chamber of Ukraine V. Marchenko to participate in the plenary session of the General Assembly of the Council of Notaries of the European Union in Italy, which was to “address the representatives of the world notary community in order to attract their attention and effective response to the events taking place in Ukraine as a result of the armed aggression of the Russian Federation, as well as to hold a number of meetings during the event and make decisions of interest to the Ukrainian notary”.

In May and June 2022, the Ministry of Foreign Affairs of Ukraine repeatedly requested the State Border Guard Service to allow a number of employees of Ukrainian companies to travel to Turkmenistan to ensure the implementation of existing contracts and pre-contractual work with Turkmen partners on projects of strategic importance to the government of Turkmenistan and under the personal control of the president of that country.

In April 2022, the Ministry of Foreign Affairs of Ukraine asked the State Border Guard Service to allow Ukrainian musician Max Barskykh to travel outside Ukraine to participate in the Stop War in Ukraine charity music tour of Ukrainian artists in the capitals of the European Union, as well as in the Billboards' MusicCon

summit and the Billboard Music Award ceremony in Las Vegas (USA). There is reason to believe that men who were not entitled to do so under the Rules No. 57 and whose departure was not justified or based on false information may have left the territory of Ukraine using the “letters of assistance” scheme and receiving undue benefits. For example, according to the Security Service of Ukraine, former director general of the Antonov State Enterprise was found to have organized the illegal transfer of Ukrainians of military age abroad. In March of this year, the official submitted to the State Border Guard Service a list of employees traveling abroad for aircraft maintenance. However, unauthorized persons were included in the group for the business trip, including a close relative of the former CEO of Antonov. Thus, this person was able to cross the border under the guise of an aircraft manufacturer.

**The National Agency has identified 6 causes and conditions that together give rise to this corruption risk:**

1. Unresolved legal grounds and procedures for traveling abroad upon “petitions” from state bodies, enterprises, institutions, and organizations.
2. Significant integration of all spheres of the country's life into international processes, developed cross-border relations, in which men of military age actively participate, which cannot be stopped immediately without significant reputational, legal, and economic damage to the individual, community, field of activity, and the state as a whole.

Such circumstances generate a significant demand for any instruments of influence that can be used to prevent men liable for military service from traveling abroad.

3. The imperfection of Rules No. 57, which do not take into account all cases, including emergency cases, in which men should be allowed to travel abroad.

This issue is a constant subject of political debate. For example, despite widely announced amendments to Rules No. 57 that would allow businesses to conduct business trips abroad and students to travel abroad to study, such amendments were not adopted and implemented. Today, a balance is being sought between public interests and the needs of mobilization in the issue of crossing the state border of Ukraine, but this process is not transparent and clear to all.

4. Lack of separate internal procedures or instructions in the State Border Guard Service to control the crossing of the state border of Ukraine by persons liable for military service under martial law and their return to the territory of Ukraine, which would exhaustively define all the grounds for permission to leave and the documents that confirm such grounds.
5. Lack of legal liability for non-compliance with the terms of stay abroad or failure to return to Ukraine; lack of control by the State Border Guard Service or other state bodies over compliance with the terms and purpose of traveling abroad.

## **RISK 4**

**Abuse of office and obtaining undue advantage by officials of the State Border Guard Service from male persons of military age for:**

- 1) facilitating illegal crossing of the state border of Ukraine outside the official checkpoint, in particular by providing information on the location of border patrols or failure to enter information on border crossing into the relevant databases.**
- 2) assistance in crossing the state border of Ukraine, in particular by using forged documents with marks of deregistration or unfitness for military service; documents that do not give grounds for traveling abroad, such as certificates and letters of need for treatment or rehabilitation in a foreign medical institution for persons who are not members of the defense and security forces, as well as letters of assistance from state authorities.**

Restrictions on traveling abroad have provoked demand for forged or corruptly obtained documents for traveling abroad, as well as for assistance from State Border Guard Service officials in crossing the state border using them. Numerous advertisements offering “turnkey services” for men aged 18 to 60 to travel abroad can be found on the Internet and Telegram channels. Law enforcement agencies systematically expose such schemes and illegal channels for smuggling men subject to military service abroad, and detain State Border Guard Service officials at the time of receiving illegal benefits.

**FOR EXAMPLE:**

1. Inspector of the border guard detachment in Chop was served a notice of suspicion of receiving an illegal benefit in the amount of USD 2 thousand and facilitating the illegal transportation of persons across the state border by providing information on the location of border patrols under the procedural supervision of the Zakarpattia Specialized Prosecutor's Office in the Military and Defence Sphere of the Western Region.
2. Under procedural supervision of Lviv Specialized Prosecutor's Office in the Military and Defence Sphere of the Western Region, investigators and operatives of the Territorial Department of the State Bureau of Investigation located in Lviv, police officers of the Strategic Investigations Department of the National Police of Ukraine in Lviv region exposed an illegal channel for smuggling potential conscripts abroad. The investigation established that the illegal scheme was organized by an inspector of the Border Guard Service, inspector of the customs post of the Lviv Customs, as well as a civilian – a local resident. These individuals estimated their “services” at USD 6 thousand per person, and promised not to enter information about border crossings into the relevant databases.
3. The Specialized Military and Defence Prosecutor's Office of the Central Region reported the detention of a sergeant of the Mohyliv-Podilskyi border guard detachment for receiving an undue benefit of USD 5,000 for allowing illegal border crossing. The border guard estimated the total cost of his services at USD 10 thousand.
4. Under the procedural supervision of prosecutors of Vinnytsia Specialized Military and Defence Prosecutor's Office, a citizen of Ukraine was detained for providing an undue benefit in the amount of USD 2 thousand to an officer of the State Border Guard Service for assistance in crossing the state border without legal grounds.
5. The State Bureau of Investigation is also investigating the travel abroad of the former Chairman of the Constitutional Court of Ukraine Oleksandr Tupytskyi. Investigators of the State Bureau of Investigation found that he left Ukraine without passing the border and customs control provided

for by law and without checking the documents granting the right to travel abroad. They also did not find out whether there were any grounds for temporarily restricting Oleksandr Tupytskyi's right to travel abroad.

- 3) not creating obstacles in crossing the state border on the basis of documents intended to confirm the right to leave, but, in the opinion of the State Border Guard Service officials, have formal deficiencies, or if the provided package of documents is recognized as insufficient.**

This risk was typical, in particular, for the procedure of crossing the state border by students of foreign higher education institutions.

For example, an official of the State Border Guard Service could create obstacles to departure due to the reference in the certificate of the territorial centre of recruitment and social support on the granting of a deferment from conscription to Article 17 of the Law of Ukraine "On Military Duty and Military Service", and not to Article 23 of the Law of Ukraine "On Mobilization Preparation and Mobilization". The problem is caused by the fact that the grounds for granting a postponement of conscription (mobilization) are regulated by both the Law of Ukraine "On Military Duty and Military Service" and the Law of Ukraine "On Mobilization Preparation and Mobilization". At the same time, there are no clear requirements for the content of the certificate of the territorial centre for recruitment and social support in the explanations of the State Border Guard Service; the Ministry of Defence and the State Border Guard Service have not agreed on such requirements and they have not been communicated to the territorial centres for recruitment and social support. As a result, there is no uniform practice of issuing certificates.

The same situation and for the same reasons could arise in connection with the wording used in the certificate. For example, an official of the State Border Guard Service could create obstacles to departure if the certificate stated that the person was "entitled to a postponement" instead of "granted a postponement" or if the postponement was for two years instead of one. Neither the legal acts nor the explanations of the State Border Guard Service contained clear instructions on these issues of preparing the certificate.

An official of the State Border Guard Service could refuse to cross the border, citing the fact that the student could not confirm the fact of studying abroad and that the package of documents submitted in accordance with the explanations of the State Border Guard Service was insufficient. This could have prompted the person to provide an unlawful benefit for not creating obstacles to departure.

- 4) failure to notify the authorities authorized to cancel the decision to depart from Ukraine for drivers of humanitarian cargoes liable for military service of violation of the terms of stay abroad or change of the purpose of the trip (clause 28 of Rules No. 57).**
- 5) failure to notify the State Service of Ukraine for Transport Safety of violation of the terms of stay abroad or change of the purpose of the trip by a driver of a business entity licensed to carry out international transportation of goods and passengers by road (clause 29 of Rules No. 57).**

According to clauses 28, 29 of Rules No. 57, drivers of humanitarian, medical and cargo for the needs of the Armed Forces of Ukraine, as well as drivers engaged in international cargo or passenger transportation, whose information is entered into the Shliakh information system, are subject to restrictions on the period of stay abroad and changes in the purpose of departure

If such periods are exceeded or the purpose of departure is changed, in accordance with clauses 28, 29 of Rules No. 57, the Ministry of Infrastructure, regional and Kyiv city military administrations cancel the travel permit, and State Service of Ukraine for Transport Safety may suspend the access of a business entity holding a transportation license to the Shliakh system for three months.

Rules No. 57 do not impose an obligation on the State Border Guard Service to inform the relevant authorities of drivers' overstay or change of purpose of departure, and such interaction is not provided for in departmental documents. However, in some cases, the State Border Guard Service does inform such authorities. Based on the information received, drivers' permits to travel abroad are cancelled.

At the same time, due to the unregulated mechanisms of information exchange and interaction between state bodies, State Border Guard Service officials independently and at their own discretion decide whether to provide relevant information to the Ministry of Infrastructure, regional and Kyiv city military administrations. Unrestricted discretion creates a risk that SBGS officials may receive undue benefit for not providing such information.

**The National Agency identified 6 reasons and conditions that allow for corruption risks in the activities of the State Border Guard Service officials:**

1. Personal dishonesty and low salaries of the State Border Guard Service officials who carry out border control.
2. Lack of authority of the State Border Guard Service to check information on military registration of persons of military age when they cross the state border in territorial centres of recruitment and social support.

Currently, no regulatory acts or internal documents of the State Border Guard Service provide for mechanisms of interaction between State Border Guard Service officials and territorial recruitment and social support centres to verify such information.

According to the risk profile No. 3\_2010\_01\_U "Illegal Crossing of the State Border by Citizens Liable for Military Service" approved by the Order of the Administration of the State Border Guard Service of Ukraine No. 213ah dated April 29, 2022 (as amended), verification of documents on military registration or unfitness for military service can be carried out in cooperation with territorial recruitment and social support centres (together with other operational units) only during the second-line control procedure in case of triggering of risk profile indicators.

3. Lack of separate internal procedures or instructions of the State Border Guard Service on controlling the crossing of the state border of Ukraine by persons liable for military service under martial law.
4. Non-transparent rules for crossing the state border. The current legislation of Ukraine does not provide for an exclusive list of documents confirming the right of men aged 18 to 60 to leave Ukraine. The lists of documents and requirements for them contained in the explanations published on the official website of the State Border Guard Service are not consistent with the Rules No. 57, are not clear and do not provide comprehensive answers to questions that arise in practice during control at border crossing points. This



allows officials of the State Border Guard Service to interpret the requirements for documents at their own discretion and require additional documents.

5. Lack of access of the State Border Guard Service officials to the Unified State Register of Conscripts, Persons Liable for Military Service and Reservists, as well as the possibility of using the information contained therein in the course of controlling the crossing of the state border of Ukraine by persons liable for military service

6. The list of information on male persons aged 18 to 60 who cross the state border, which is entered into the Arkan information system, administered by the State Border Guard Service, does not include information on the grounds for departure and supporting documents, as well as the date of return to Ukraine and the duration of stay abroad. There are no clear requirements for such information for the period of martial law.

## RISK 5

**Abuse of influence, extortion and receipt of undue advantage by military personnel of territorial recruitment and social support centres (hereinafter referred to as TRCs and SSCs) for issuing, assisting in issuing or forging military registration and other documents entitling men aged 18 to 60 to travel abroad.**

**Abuse, extortion and receipt of undue advantage by doctors of military medical commissions (hereinafter referred to as MMCs) for issuing conclusions on temporary unfitness for military service for health reasons or unfitness for military service with exclusion from military registration.**

In accordance with clause 26 of Rules No. 57, in case of martial law, persons liable for military service who are not subject to call-up for military service during mobilization have the right to cross the state border. Such persons include, in particular:

1) persons who, in accordance with the conclusion of the military medical commission, are temporarily unfit for military service for health reasons for a period of up to 6 months (with subsequent passing of the military medical commission (para. 3, Part 1, Article 23 of the Law of Ukraine “On Mobilization Preparation and Mobilization”);

2) other persons liable for military service or certain categories of citizens who are not subject to call-up for military service during mobilization in cases stipulated by law (para. 16, Part 1, Article 23 of the Law of Ukraine “On Mobilization Preparation and Mobilization”). According to the explanations of the State Border Guard Service published on its official website, such persons are citizens who are recognized by military medical commissions as unfit for military service for health reasons and are excluded from military registration (clause 3, Part 6, Article 37 of the Law of Ukraine “On Military Duty and Military Service”).

In each of the above cases, an MMC conclusion is required to cross the border.

The procedure for medical examination of conscripts, servicemen, persons liable for military service, reserve officers and reservists is determined by the Regulation on Military Medical Examination in the

Armed Forces of Ukraine approved by Order of the Ministry of Defence of Ukraine No. 402 dated August 14, 2008.

In accordance with the provisions of this Regulation, as well as the Law of Ukraine “On Mobilization Preparation and Mobilization” and the Law of Ukraine “On Military Duty and Military Service”, medical examination is conducted by the decision of the head of the TRC and SSC. In turn, the decisions made by the MMC affect the military registration of conscripts, persons liable for military service and reservists, which is carried out by the TRC and SSC.

The constant interaction of the TRC and SSC with the MMC leads to the emergence of strong official and personal ties between TRC and SSC servicemen and doctors of medical institutions, which, in the context of increased demand for documents for traveling abroad and avoiding mobilization, contributes to corruption risks. Law enforcement agencies systematically expose corruption schemes and channels for redirecting men of military age across the state border, organized by TRC and SSC servicemen in cooperation with MMC doctors.

**FOR EXAMPLE:**

1. Under the procedural supervision of the Volyn Specialized Prosecutor's Office in the Military and Defence Sphere of the Western Region, a senior lieutenant of the Kovel District TRC and SSC and a former serviceman of the same centre were served a notice of suspicion of abuse of influence and illegal transportation of persons across the state border of Ukraine.

According to the investigation, the offenders provided the recruit with a fake MMC certificate and a temporary certificate of a person liable for military service. The offenders estimated their “services” at USD 6.2 thousand.

According to the Specialized Prosecutor's Office in the Military and Defence Sphere of the Western Region, this is the fourth case of exposing unscrupulous military personnel of the Volyn Regional Territorial Centre for Recruitment and Social Support since the beginning of the year.

2. According to the Security Service of Ukraine dated August 29, 2022, in Kyiv, the activities of a criminal group, whose members were current TRC and SSC employees, lawyers and doctors, were terminated. For USD 12 thousand, they produced a full package of fictitious documents that allowed persons evading mobilization to cross the state border of Ukraine without hindrance.

3. On August 31, 2022, under the procedural guidance of prosecutors of the Cherkasy Specialized Prosecutor's Office in the Military and Defence Sphere of the Central Region, a serviceman of one of the district TRC and SSC of Cherkasy region was detained. According to the investigation, the serviceman received an undue benefit in the amount of USD 10 thousand for influencing the decision to register a citizen of Ukraine for military service, declare him unfit for military service for health reasons and issue a certificate that would give him the right to travel abroad during martial law.

In addition to the risks associated with issuing documents on temporary unfitness for military service or deregistration for health reasons, TRC and SSC servicemen may demand and receive undue benefits for

issuing documents granting the right to travel abroad to students of foreign higher education institutions and sailors.

The National Agency has identified 10 causes and conditions that allow for the above-mentioned corruption risks:

1. Strong official and personal ties of TRC and SSC managers with MMC doctors.
2. Closed and non-transparent activities of MMC in terms of document flow and decision-making.
3. Lack of electronic document management systems and electronic interaction with state authorities, in particular, the State Border Guard Service and the MMC.
4. Ineffective and incomplete functioning of the Unified State Register of Conscripts, Persons Liable for Military Service and Reservists. Despite the fact that the work on the implementation of such a register was launched in 2017, as of 2022, it is not a fully functioning tool, and the progress in its development, according to the interviewed representatives of the Ministry of Defence, some TRCs and SSCs, is unsatisfactory.
5. Ineffective control over the activities of the TRC and SSC and MMC.
6. Legally limited possibilities to bring MMC doctors to criminal liability for forging conclusions, as MMC decisions are made collectively.
7. Lack of a common official position of the Ministry of Defence or the General Staff and the State Border Guard Service on the list of documents, their forms and requirements for their content, which are issued by the TRC and SSC and give the right to cross the state border.
8. Unregulated in the legal acts the procedure and terms of obtaining certificates from the TRC and SSC for traveling abroad, as well as the permission of the TRC and SSC to leave the seafarer's place of residence, which are required in accordance with Rules No. 57 for crossing the state border.
9. Limited hours of reception of citizens at TRC and SSC and a "live" queue for reception.

As a rule, appointments are made only 2 days a week. Restrictions on reception hours lead to queues and the inability to promptly resolve the issue with which a person applies. Often, a person cannot receive a document or resolve an issue in one day, which leads to the need to spend additional time and resources on TRC and SSC. Such conditions lead to tension, discomfort, anxiety, a desire to find alternative ways to resolve the issue and create a psychologically favourable environment for corruption risks.

10. Personal contact with TRC and SSC employees is mandatory. In accordance with clause 56 of the Procedure for Organizing and Maintaining Military Registration of Conscripts and Persons Liable for Military Service approved by the Resolution of the Cabinet of Ministers of Ukraine No. 921 dated December 7, 2016, registration, removal and exclusion from military registration of conscripts and persons liable for military service in district (city) TRCs and SSCs is carried out in their personal presence. Personal contact of citizens with employees of TRC and SSC, on whom the resolution of issues directly depends, together with other reasons and conditions, is one of the sources of corruption risks.

## RISKS 6

**Abuse of office, influence, extortion and receipt of unlawful demands in the interests of their own or third parties by officials of military administrations, local governments, chairmen and members of disability determination services (hereinafter referred to as DDSs), as well as officials and doctors of medical institutions for issuing forged documents, in particular, certificates to the DDS examination report on the establishment of a disability group for persons liable for military service.**

In accordance with clause 21 of Rules No. 57, in case of martial law on the territory of Ukraine, persons with disabilities have the right to cross the state border if they have supporting documents. One of these documents is a certificate to the act of examination by the medical and social expert commission (form of primary accounting documentation No. 157-1/o).

The procedure for considering the issue of determining a disability group, the composition and powers of medical and social expert commissions, and the procedure for appealing their decisions are established by the Regulation on Medical and Social Expertise, approved by Resolution No. 1317 of the Cabinet of Ministers of Ukraine on December 3, 2009, and the Instruction No. 561 on Determining Disability Groups approved by the Ministry of Health on September 05, 2011. The shortcomings and gaps in these legal acts, which provide the head of the DDS with excessive discretion and opportunities to manipulate the timing and procedure, and the shortcomings of the system and procedure for applying medical criteria for establishing disability are among many other reasons for the existence of persistent corrupt practices in the issue of disability determination. The restriction on men's right to travel abroad has created additional favourable conditions for the spread of such practices. For example, law enforcement agencies have uncovered numerous channels of illegal trafficking of men abroad with the help of corruptly forged certificates to the DDS inspection reports on the establishment of a disability group. At the same time, officials of the State Border Guard Service may refuse to cross the state border if they find obvious signs of document forgery. However, in the absence of special tools for verifying the accuracy of information about a person's disability, such as a register of persons with disabilities, a person liable for military service may be allowed to travel abroad based on an illegally obtained document

#### **EXAMPLE OF A DETECTED AND STOPPED SCHEME:**

Security Service of Ukraine officers exposed persons who “helped” persons liable for military service to leave Ukraine using forged documents confirming their unfitness for military service. The scheme was organized by the head of one of the district social protection departments of the Department of Humanitarian Policy of Lviv City Council, and her accomplices were employees of a medical institution. In exchange for USD 1.3 thousand, the official guaranteed the production of certificates included in the DDS examination report on the disability group. It should also be noted that “services for organizing the departure of men abroad” with the help of forged certificates to the DDS examination report is one of the most common illegal schemes “advertised” in the public domain on the Internet and Telegram channels. In addition to the individual dishonesty of state and local government officials and DDS members, the National Agency has identified 9 other causes and conditions that contribute to the risk:

1. Shortcomings and gaps in the regulatory framework for the procedures of the DDS.
2. Excessive, often unreasonable, discretionary powers of the Head of the DDS.
3. Shortcomings in the system and procedure for applying medical criteria for determining disability.

4. Insecurity of document flow from forgery and destruction.
5. Closed and non-transparent activities of the DDS in terms of document flow and decision-making.
6. Personal contact between patients and DDS members in the process of preparation and completion of the procedure.
7. Imperfection of internal control procedures for DDS decisions.
8. Formation of networks of corruption at the regional or sectoral level, in particular on the basis of existing formal institutional and functional interactions between doctors, DDS and other bodies, which create prerequisites for influencing the decision to refer to DDS.
9. Dependence of the head and members of the DDS on individual officials of other DDS (due to administrative subordination and the possibility of abuse of control powers, etc.)

## RISK 7

**Abuse, extortion and receipt of unlawful demands in the interests of their own or third parties by officials of military administrations for granting unimpeded permission to travel to the temporarily occupied territory of Ukraine (crossing the “demarcation line”).**

One of the schemes of traveling abroad for men liable for military service, which allows to circumvent the requirements set forth in Rules No. 57 and is implemented outside the official checkpoints across the state border of Ukraine, is crossing the “demarcation line” on the territory of Zaporizhzhia region, in particular. After leaving for the temporarily occupied territory and passing through “filtration” procedures organized by the military of the Russian Federation (or outside such procedures), citizens of Ukraine liable for military service leave for the European Union or in another direction through the territory of the Russian Federation, Georgia, and Belarus. The legal basis for the implementation of such a scheme, entry and departure of Ukrainian citizens to the uncontrolled territory under martial law is the provisions of clause 6, Article 8 of the Law of Ukraine “On the Legal Regime of Martial Law”, the Procedure for Establishing a Special Regime of Entry and Departure, Restriction of Freedom of Movement of Citizens, Foreigners and Stateless Persons, as well as Vehicle Movement in Ukraine or in Certain Areas of Ukraine where Martial Law has been Introduced” approved by Resolution of the Cabinet of Ministers of Ukraine No. 1455 dated December 29, 2021, as well as the procedures established by regional military administrations and military commandant's offices. Based on these regulations, upon individual applications from civilians, military administrations grant the right to cross the “demarcation line”, in particular, to provide humanitarian assistance to protect civilians in the temporarily occupied territory. Departure permits are also allowed for the movement of personal belongings. There is a “market” for the sale of permits for military men to travel freely to uncontrolled territory for undue gain. Participants in the schemes are usually officials of military administrations. For example, on August 27, 2022, the Office of the Prosecutor General reported exposing a corruption scheme for citizens to cross the demarcation line in Zaporizhzhia. According to the investigation, two individuals extorted illegal money from citizens for a “quick and positive” consideration of applications

to travel to the uncontrolled territory of Ukraine. They were supposed to transfer part of the money they received to government officials. The price for unimpeded crossing of the demarcation line was from USD 500 to 1500 for one person, and from USD 700 for a vehicle.

Causes and conditions that contribute to the risk include the following:

1. Personal dishonesty of officials of military administrations.
2. Closed and non-transparent procedure for granting travel permits.
3. Insufficient external control over the activities of military administration officials.
4. Lack of responsibility of civilians for not returning to the territory controlled by Ukraine after crossing the “demarcation line”.
5. Information about persons crossing the “demarcation line” and persons who have not granted permission is not systematized or analysed. Electronic registers on this issue have not been implemented.
6. Local law enforcement agencies may be complicit in such schemes and “cover” them.

## Annex 3: Translation of annex to NACP Report<sup>382</sup>

### BACKGROUND INFORMATION

ON THE CATEGORIES OF PERSONS LIABLE FOR MILITARY SERVICE WHO ARE ALLOWED TO TRAVEL  
OUTSIDE UKRAINE DURING MARTIAL LAW

Source:

Ukraine, National Agency on Corruption Prevention of Ukraine, *Corruption schemes and risks related to leaving the country during martial law [in Ukrainian]*, October 2022, <https://nazk.gov.ua/wp-content/uploads/2022/10/Koruptsiy-ni-shemy-ta-ryzyky-pid-chas-vyi-zdu-z-Ukrai-ny-v-umovah.pdf>

No.	Categories of persons	Documents or information required to travel outside Ukraine	Ground
<u>1</u>	<u>Person with a disability (regardless of a group)</u>	<p><u>Documents confirming disability:</u></p> <p><u>A certificate to the act of examination by the medical and social expert commission (form of primary accounting documentation No. 157-1/o),</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>A certificate confirming the relevant status,</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>A pension certificate or a certificate confirming the appointment of social assistance in accordance with the laws of Ukraine on State Social Assistance to Persons with Disabilities Since Childhood and Disabled Children, on State Social Assistance to Persons Not Entitled to Pensions and Persons with Disabilities, indicating the group and cause of disability,</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>A certificate for receiving benefits by persons with disabilities who are not entitled to a pension or social assistance in the form approved by the Ministry of Social Policy</u></p>	<p>item 2 of para. 2<sup>1</sup> of Rules No. 57</p> <p><u>Explanation of the State Tax Service of Ukraine</u></p>
<u>2</u>	<u>A person who has a spouse with a disability</u>	<p><u>When accompanying a person with a disability traveling outside Ukraine:</u></p> <p><u>Documents confirming kinship (notarized copies thereof)</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>Documents confirming disability.</u></p>	<p>items 3 and 12 of para. 2<sup>1</sup> of Rules No. 57</p>

<sup>382</sup> Ukraine, National Agency on Corruption Prevention, *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, <https://nazk.gov.ua/wp-content/uploads/2022/10/Koruptsiy-ni-shemy-ta-ryzyky-pid-chas-vyi-zdu-z-Ukrai-ny-v-umovah.pdf>, p. 88-119



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		<p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>Certificate of registration of a person with a disability (spouse) in the consular registry and the above documents (notarized copies thereof)</u></p>	
3	<p><u>A person whose parents or whose spouse's parents are the persons with disabilities of group I or II</u></p>	<p><u>When accompanying a person with a disability traveling outside Ukraine:</u></p> <p><u>Documents confirming kinship (notarized copies thereof), and</u></p> <p><u>Documents confirming the disability (notarized copies thereof), and</u></p> <p><u>Documents confirming the sharing of a household (where their declared or registered place of residence (stay) coincides with the declared or registered place of residence (stay) of their parents or their spouse's parents), or caring for their parents or their spouse's parents, which is confirmed by a certificate establishing the fact of caring for one of their parents or their spouse's parents, or documents (certificates) on receipt of compensation (assistance, allowance) for care.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of one of his/her parents or his/her spouse's parents as persons with disabilities of group I or II in the consular registry and the above documents (notarized copies thereof)</u></p>	<p>items 4 and 12 of para. 2<sup>1</sup> of Rules No. 57</p>
4	<p><u>A person providing permanent care for a person with a disability of group I or II</u></p>	<p><u>When accompanying a person with a disability traveling outside Ukraine:</u></p> <p><u>Documents (certificates) on receipt of compensation (assistance, allowance) for care</u></p> <p><u>or</u></p> <p><u>Documents confirming the disability and a certificate of establishing the fact of care.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of a person with a disability of group I or II in the consular registry and the above documents (notarized copies thereof)</u></p>	<p>items. 5 and 12 of para. 2<sup>1</sup> of Rules No. 57</p>
5	<p><u>Parents raising a disabled child under the age of 18</u></p>	<p><u>When accompanying a disabled child under the age of 18 traveling outside Ukraine:</u></p> <p><u>The child's birth certificate and</u></p> <p><u>A certificate confirming the appointment of social assistance in accordance with the Law of Ukraine on State Social Assistance to Persons with Disabilities Since</u></p>	<p>items 6 and 12 of para. 2<sup>1</sup> of Rules No. 57</p>

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		<p><u>Childhood and Disabled Children, indicating the status of a "disabled child" (a notarized copy thereof), or</u></p> <p><u>A certificate of receipt of state social assistance for disabled children issued by a unit for social protection of the population of a city district or state administration in Kyiv district, an executive body of a city council whose territory includes the territory of a city of regional significance, a city district council (if any) (a notarized copy thereof), or</u></p> <p><u>An individual rehabilitation program for a disabled child issued by the medical advisory commission of a health care institution (a notarized copy thereof),</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>A medical report on a disabled child under the age of 18 (a notarized copy thereof).</u></p> <p style="text-align: center;"><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of a disabled child under the age of 18 and the above documents (notarized copies thereof)</u></p>	
6	<u>Guardians raising a disabled child under the age of 18</u>	<p><u>When accompanying a disabled child traveling outside Ukraine:</u></p> <p><u>Documents confirming the relevant powers of the person accompanying the disabled child, and</u></p> <p><u>A certificate confirming the appointment of social assistance in accordance with the Law of Ukraine on State Social Assistance to Persons with Disabilities Since Childhood and Disabled Children, indicating the status of "a disabled child" (a notarized copy thereof),</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>A certificate of receipt of state social assistance for disabled children issued by a unit for social protection of the population of a city district or state administration in Kyiv district, an executive body of a city council whose territory includes the territory of a city of regional significance, a city district council (if any) (a notarized copy thereof),</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>An individual rehabilitation program for a disabled child issued by the medical advisory commission of a health care institution (a notarized copy thereof),</u></p> <p style="text-align: center;"><u>or</u></p>	items 6 and 12 of para. 2 <sup>1</sup> of Rules No. 57

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		<p><u>A medical report on a disabled child under the age of 18 (a notarized copy thereof).</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of a disabled child under the age of 18 in the consular registry and the above documents (notarized copies thereof)</u></p>	
7	<u>Foster parents raising a disabled child under the age of 18</u>	<p><u>When accompanying a disabled child traveling outside Ukraine:</u></p> <p><u>Documents confirming the relevant powers of the person accompanying the disabled child, and</u></p> <p><u>A certificate confirming the appointment of social assistance in accordance with the Law of Ukraine on State Social Assistance to Persons with Disabilities Since Childhood and Disabled Children, indicating the status of "a disabled child" (a notarized copy thereof),</u></p> <p><u>or</u></p> <p><u>A certificate of receipt of state social assistance for disabled children issued by a unit for social protection of the population of a city district or state administration in Kyiv district, an executive body of a city council whose territory includes the territory of a city of regional significance, a city district council (if any) (a notarized copy thereof),</u></p> <p><u>or</u></p> <p><u>An individual rehabilitation program for a disabled child issued by the medical advisory commission of a health care institution (a notarized copy thereof),</u></p> <p><u>or</u></p> <p><u>A medical report on a disabled child under the age of 18 (a notarized copy thereof).</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of a disabled child under the age of 18 in the consular registry and the above documents (notarized copies thereof)</u></p>	<p>items 6 and 12 of para. 2<sup>1</sup> of Rules No. 57</p>
8	<u>Parents-caregivers raising a disabled child under the age of 18</u>	<p><u>When accompanying a disabled child traveling outside Ukraine:</u></p> <p><u>Documents confirming the relevant powers of the person accompanying the disabled child, and</u></p> <p><u>A certificate confirming the appointment of social assistance in accordance with the Law of Ukraine on State Social Assistance to Persons with Disabilities Since</u></p>	<p>items 6 and 12 of para. 2<sup>1</sup> of Rules No. 57</p>

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		<p><u>Childhood and Disabled Children, indicating the status of "a disabled child" (a notarized copy thereof),</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>A certificate of receipt of state social assistance for disabled children issued by a unit for social protection of the population of a city district or state administration in Kyiv district, an executive body of a city council whose territory includes the territory of a city of regional significance, a city district council (if any) (a notarized copy thereof),</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>An individual rehabilitation program for a disabled child issued by the medical advisory commission of a health care institution (a notarized copy thereof),</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>A medical report on a disabled child under the age of 18 (a notarized copy thereof).</u></p> <p style="text-align: center;"><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of a disabled child under the age of 18 in the consular registry and the above documents (notarized copies thereof)</u></p>	
9	<p><u>Parents with a dependent adult child who is a person with a disability of group I or II</u></p>	<p><u>When accompanying an adult child who is a person with a disability of group I or II traveling abroad:</u></p> <p><u>Birth certificate of an adult child who is a person with a disability of group I or II, and</u></p> <p><u>Documents confirming the disability (notarized copies thereof).</u></p> <p style="text-align: center;"><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of an adult child who is a person with a disability of group I or II in the consular registry and the above documents (notarized copies thereof)</u></p>	<p><u>items 7 and 12 of para. 2<sup>1</sup> of Rules No. 57</u></p>
10	<p><u>Grandparents accompanying disabled children traveling outside Ukraine, if they belong to the category of persons not subject to military service during mobilization</u></p>	<p><u>When accompanying a disabled child traveling outside Ukraine:</u></p> <p><u>Documents confirming that the person belongs to the category of persons who are not subject to military service during mobilization,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>Documents confirming kinship (notarized copies thereof)</u></p>	<p><u>Item 8 of para. 2<sup>1</sup> of Rules No. 57</u></p>

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11	<p><u>An adult brother (sister) who accompanies disabled children traveling outside Ukraine, if they belong to the category of persons not subject to military service during mobilization</u></p>	<p><u>When accompanying a disabled child traveling outside Ukraine:</u></p> <p><u>Documents confirming that the person belongs to the category of persons who are not subject to military service during mobilization,</u></p> <p><u>and</u></p> <p><u>Documents confirming kinship (notarized copies thereof)</u></p>	<p><u>Item 8 of para. 2<sup>1</sup> of Rules No. 57</u></p>
12	<p><u>A stepfather (stepmother) who accompanies disabled children traveling outside Ukraine, if they belong to the category of persons not subject to military service during mobilization</u></p>	<p><u>When accompanying a disabled child traveling outside Ukraine:</u></p> <p><u>Documents confirming that the person belongs to the category of persons who are not subject to military service during mobilization,</u></p> <p><u>and</u></p> <p><u>Documents confirming kinship (notarized copies thereof)</u></p>	<p><u>Item 8 of para. 2<sup>1</sup> of Rules No. 57</u></p>
13	<p><u>Persons in need of constant care</u></p>	<p><u>Accompanied by one of the family members of the first degree of kinship (within the meaning of <a href="#">sub-paragraph 14.1.263</a> of paragraph 14.1 of Article 14 of the Tax Code of Ukraine):</u></p> <p><u>Documents confirming family ties,</u></p> <p><u>and</u></p> <p><u>The conclusion of the medical advisory commission of the health care institution on the need for constant third-party care.</u></p> <p><u>Accompanied by a person who provides constant care for persons requiring constant care:</u></p> <p><u>Documents (certificates) on receipt of compensation (assistance, allowance) for care</u></p> <p><u>or</u></p> <p><u>Conclusion of the medical advisory commission of the healthcare institution on the need for a permanent third-party care</u></p> <p><u>and</u></p> <p><u>A certificate establishing the fact of care</u></p>	<p><u>Item 9 of para. 2<sup>1</sup> of Rules No. 57</u></p>
14	<p><u>Family members of the first degree of kinship (within the meaning of <a href="#">sub-paragraph 14.1.263</a> of paragraph 14.1 of Article 14 of the Tax Code of Ukraine) of</u></p>	<p><u>When accompanying a person who needs constant care traveling abroad:</u></p> <p><u>Documents confirming family ties,</u></p> <p><u>and</u></p>	<p><u>Items 9 and 12 of para. 2<sup>1</sup> of Rules No. 57</u></p>

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	<u>persons in need of constant care</u>	<p><u>The conclusion of the medical advisory commission of the health care institution on the need for constant third-party care.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of a person in need of permanent care in the consular registry and the above documents (notarized copies thereof)</u></p>	
<u>15</u>	<u>Persons providing permanent care for persons requiring permanent care</u>	<p><u>When accompanying a person who needs constant care traveling abroad:</u></p> <p><u>Documents (certificates) on receipt of compensation (assistance, allowance) for care or</u></p> <p><u>Opinion of the medical advisory commission of the health care institution on the need for constant third-party care</u></p> <p><u>and</u></p> <p><u>A certificate of establishing the fact of care.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of a person in need of permanent care in the consular registry and the above documents (notarized copies thereof)</u></p>	<u>Items 9 and 12 of para. 2<sup>1</sup> of Rules No. 57</u>
<u>16</u>	<u>Guardians of persons with disabilities recognized by the court as incapacitated</u>	<p><u>When accompanying a person with a disability recognized by a court as incapacitated traveling outside Ukraine:</u></p> <p><u>A decision on the appointment of a guardian over a person with a disability recognized by a court as incapacitated.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of registration of a person with a disability recognized by a court as incapacitated in the consular registry and the above documents (notarized copies thereof)</u></p>	<u>Items 10 and 12 of para. 2<sup>1</sup> of Rules No. 57</u>
<u>17</u>	<u>Adult family members of the first or second degree of kinship (as defined in <a href="#">sub-paragraph 14.1</a> of paragraph 14 of the Tax Code of Ukraine) of persons with disabilities recognized by the court as incapacitated, in case of failure to appoint a guardian to a person with</u>	<p><u>When the guardian accompanies a person with a disability recognized by a court as incapacitated traveling outside Ukraine:</u></p> <p><u>Documents confirming family ties,</u></p> <p><u>and</u></p> <p><u>Documents confirming the disability (notarized copies thereof).</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p>	<u>Items 10 and 12 of para. 2<sup>1</sup> of Rules No. 57</u>

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	<u>disabilities recognized by the court as incapacitated</u>	<u>A certificate of registration of a person with a disability recognized by a court as incapacitated in the consular registry and the above documents (notarized copies thereof)</u>	
18	<u>Persons with disabilities or other persons in need of constant care who live (stay) in institutions regardless of their form of ownership and subordination and receive social services for inpatient care, palliative care or supported living</u>	<u>If accompanied by employees of the care facility authorized by the director of the care facility or his/her substitute:</u>  <u>An order of the director of a care facility or his/her substitute on the departure of persons with disabilities or other persons in need of constant care outside Ukraine</u>  <u>and</u>  <u>Documents confirming disability</u>	<u>Item 11 of para. 2<sup>1</sup> of Rules No. 57</u>
19	<u>Employees of care facilities, regardless of the form of ownership, authorized by the director of the care facility or his/her substitute, who provide social services for inpatient care, palliative care or supported living, accompanying persons with disabilities or other persons in need of constant care and residing in such institutions, provided that the employees of the institutions are registered with the territorial centers of recruitment and social support, the SSU Central Office or regional bodies, and units of the Foreign Intelligence Service</u>	<u>When accompanying a person with a disability or another person in need of constant care traveling outside Ukraine, at the rate of one person per 25 persons with disabilities and other persons in need of constant care:</u>  <u>Order of the director of a care facility or his/her substitute on the departure of persons with disabilities or other persons in need of constant care outside of Ukraine</u>  <u>and</u>  <u>Documents confirming disability.</u>  <u>To travel outside Ukraine on his/her own:</u>  <u>An order of the director of the care facility or his/her substitute on the rotation of accompanying persons from among the employees of the care facility, taking into account the requirements for accompanying persons established in sub-para. 11 para. 2<sup>1</sup> of Rules No. 57</u>	<u>Items 11 and 14 of para. 2<sup>1</sup> of Rules No. 57</u>
20	<u>Father (mother) of a child with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of grade IV, or a child</u>	<u>When accompanying a child traveling outside Ukraine:</u>  <u>A document issued by the medical advisory commission of a healthcare institution in accordance with the procedure and in the form established by the Ministry of Health,</u>  <u>or</u>  <u>A certificate of receipt of state aid for a child suffering from severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of the IV.</u>	<u>Para. 2<sup>2</sup> of Rules No. 57</u>  <u>Explanation of the SBGSU</u>



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	<p><u>who has been seriously injured, needs an organ transplant or palliative care</u></p>	<p><u>degree, or for a child who has suffered a serious injury, needs an organ transplant or palliative care, who has not been diagnosed with a disability issued by a unit for social protection of the population of the city district, district in Kyiv state administration, the executive body of the city council, the territory of the territorial community of which includes the territory of the city of regional significance, the district council in the city (if any) (regardless of who is appointed as the assistance beneficiary)</u></p> <p><u>and</u></p> <p><u>Documents confirming family ties.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of the sick child's registration in the consular registry and the above documents (notarized copies thereof)</u></p>	
21	<p><u>A guardian of a child with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of grade IV, or a child who has been seriously injured, needs an organ transplant or palliative care</u></p>	<p><u>When accompanying a child traveling outside Ukraine:</u></p> <p><u>A document issued by the medical advisory commission of a healthcare institution in accordance with the procedure and in the form established by the Ministry of Health,</u></p> <p><u>or</u></p> <p><u>A certificate of receipt of state aid for a child suffering from severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of the IV degree, or for a child who has suffered a serious injury, needs an organ transplant or palliative care, who has not been diagnosed with a disability issued by a unit for social protection of the population of the city district, district in Kyiv state administration, the executive body of the city council, the territory of the territorial community of which includes the territory of the city of regional significance, the district council in the city (if any) (regardless of who is appointed as the assistance beneficiary)</u></p> <p><u>and</u></p> <p><u>Documents confirming relevant powers of a person accompanying the sick child.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p>	<p><u>Para. 2<sup>2</sup> of Rules No. 57</u></p> <p><u>Explanation of the SBGSU</u></p>

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		<p><u>A certificate of the sick child's registration in the consular registry and the above documents (notarized copies thereof)</u></p>	
22	<p><u>A caregiver of a child with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of grade IV, or a child who has been seriously injured, needs an organ transplant or palliative care</u></p>	<p><u>When accompanying a child traveling outside Ukraine:</u></p> <p><u>A document issued by the medical advisory commission of a healthcare institution in accordance with the procedure and in the form established by the Ministry of Health,</u></p> <p><u>or</u></p> <p><u>A certificate of receipt of state aid for a child suffering from severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of the IV degree, or for a child who has suffered a serious injury, needs an organ transplant or palliative care, who has not been diagnosed with a disability issued by a unit for social protection of the population of the city district, district in Kyiv state administration, the executive body of the city council, the territory of the territorial community of which includes the territory of the city of regional significance, the district council in the city (if any) (regardless of who is appointed as the assistance beneficiary)</u></p> <p><u>and</u></p> <p><u>Documents confirming relevant powers of a person accompanying the sick child.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of the sick child's registration in the consular registry and the above documents (notarized copies thereof)</u></p>	<p><u>Para. 2<sup>2</sup> of Rules No. 57</u></p> <p><u>Explanation of the SBGSU</u></p>
23	<p><u>Foster parents of a child with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of grade IV, or a child who has been seriously</u></p>	<p><u>When accompanying a child traveling outside Ukraine:</u></p> <p><u>A document issued by the medical advisory commission of a healthcare institution in accordance with the procedure and in the form established by the Ministry of Health,</u></p> <p><u>or</u></p> <p><u>A certificate of receipt of state aid for a child suffering from severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of the IV degree, or for a child who has suffered a serious injury,</u></p>	<p><u>Para. 2<sup>2</sup> of Rules No. 57</u></p> <p><u>Explanation of the SBGSU</u></p>

	<p><u>injured, needs an organ transplant or palliative care</u></p>	<p><u>needs an organ transplant or palliative care, who has not been diagnosed with a disability issued by a unit for social protection of the population of the city district, district in Kyiv state administration, the executive body of the city council, the territory of the territorial community of which includes the territory of the city of regional significance, the district council in the city (if any) (regardless of who is appointed as the assistance beneficiary)</u></p> <p><u>and</u></p> <p><u>Documents confirming relevant powers of a person accompanying the sick child.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p> <p><u>A certificate of the sick child's registration in the consular registry and the above documents (notarized copies thereof)</u></p>	
<p>24</p>	<p><u>Parents-caregivers of a child with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of grade IV, or a child who has been seriously injured, needs an organ transplant or palliative care</u></p>	<p><u>When accompanying a child traveling outside Ukraine:</u></p> <p><u>A document issued by the medical advisory commission of a healthcare institution in accordance with the procedure and in the form established by the Ministry of Health,</u></p> <p><u>or</u></p> <p><u>A certificate of receipt of state aid for a child suffering from severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of the IV degree, or for a child who has suffered a serious injury, needs an organ transplant or palliative care, who has not been diagnosed with a disability issued by a unit for social protection of the population of the city district, district in Kyiv state administration, the executive body of the city council, the territory of the territorial community of which includes the territory of the city of regional significance, the district council in the city (if any) (regardless of who is appointed as the assistance beneficiary)</u></p> <p><u>and</u></p> <p><u>Documents confirming relevant powers of a person accompanying the sick child.</u></p> <p><u>To travel outside Ukraine on his/her own:</u></p>	<p><u>Para. 2<sup>2</sup> of Rules No. 57</u></p> <p><u>Explanation of the SBGSU</u></p>

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		<u>A certificate of the sick child's registration in the consular registry and the above documents (notarized copies thereof)</u>	
<u>25</u>	<u>Legal representative (authorized person) of orphans, children deprived of parental care, who have not reached the age of 18 and are living or enrolled in institutions of different types, ownership and subordination for round-the-clock stay</u>	<p><u>When accompanying a child traveling outside Ukraine:</u></p> <p><u>A passport of a citizen of Ukraine or a child's birth certificate (if there is no passport of a citizen of Ukraine)/documents containing information about the person on the basis of which the State Border Guard Service will allow crossing the state border,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>An order of the director of the institution/facility where the children lived/stayed, or his/her substitute, to take the children outside Ukraine,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>A written agreement signed by the head or deputy head of the regional military administration (certified by a seal) on the permission for children to travel outside Ukraine, agreed with the National Social Support Service,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>Invitations of institutions, organizations of various types and forms of ownership authorized by the state of final residence of children or local governments of such a state to take actions to receive and accompany children from the other countries</u></p>	<u>Para. 2<sup>3</sup> of Rules No. 57</u>
<u>26</u>	<u>A person authorized by the head of the relevant institution/his/her substitute, or by the guardianship and custody authority or a regional military administration, accompanied by a foster care provider who cares for children, to accompany children under the age of 18 who do not belong to the category of orphans, children deprived of parental care, but who are enrolled in institutions of various types, forms of ownership and subordination for a twenty-four-hour stay.</u>	<p><u>When accompanying a child traveling outside Ukraine:</u></p> <p><u>A passport of a citizen of Ukraine or a child's birth certificate (if there is no passport of a citizen of Ukraine)/documents containing information about the person on the basis of which the State Border Guard Service will allow crossing the state border,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>An order of the director of the institution/facility where the children lived/stayed, or his/her substitute,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>A written agreement signed by the head or deputy head of the regional military administration (certified by a seal) on the permission for children to travel outside Ukraine, agreed with the National Social Support Service,</u></p> <p style="text-align: center;"><u>And</u></p>	<u>Para. 2<sup>3</sup> of Rules No. 57</u>

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	<p><u>placed in foster care families</u></p>	<p><u>A decision of the guardianship and custody authority on the placement of a child in a foster care family and a written agreement signed by the head or deputy head of the regional military (military-civilian) administration (certified by a seal) authorizing such a family or children placed in a family foster caregiver to leave Ukraine, indicating the state of their final stay,</u></p> <p><u>and</u></p> <p><u>Invitations of institutions, organizations of various types and forms of ownership authorized by the state of final residence of children or local governments of such a state to take actions to receive and accompany children from the other countries</u></p>	
27	<p><u>Persons reserved for the period of mobilization and wartime</u></p> <p><u>by a public authority, another government agency, by the local self-government in the manner established by the Cabinet of Ministers of Ukraine</u></p>	<p><u>When traveling outside Ukraine on a business trip:</u></p> <p><u>Documents confirming the business trip (resolution of the Cabinet of Ministers of Ukraine No. 440 dated 12.04.2022),</u></p> <p><u>and</u></p> <p><u>A certificate of deferment from military service and a notice of registration in a special military registry (order of the Cabinet of Ministers of Ukraine No. 493-r dated 08.08.1995)</u></p> <p><u>or</u></p> <p><u>An excerpt from the Order of the Ministry of Economy (according to paragraph 5 of the Resolution of the Cabinet of Ministers of Ukraine No. 194 dated 03.03.2022 on Some Issues of Reservation of Persons Liable for Military Service under the Legal Regime of Martial Law).</u></p> <p><u>When traveling outside Ukraine on vacation:</u></p> <p><u>Documents confirming the vacation,</u></p> <p><u>and</u></p> <p><u>A certificate of deferment from conscription and a notice of registration in a special military registry (order of the Cabinet of Ministers of Ukraine No. 493-r dated 08.08.1995)</u></p>	<p>Para. 2<sup>6</sup> of Rules No. 57</p> <p>(defining the category of persons, but not stipulating either the conditions for departure, or requirements for confirming documents)</p> <p>Clarification of the SBGSU (stipulating the conditions for departure and requirements for supporting documents)</p>
28	<p><u>Persons reserved for the period of mobilization and wartime</u></p> <p><u>by a company, institution or organization in the manner established by the</u></p>	<p><u>When traveling outside Ukraine on a business trip:</u></p> <p><u>An excerpt from the order of the Ministry of Economy (according to paragraph 5 of the Resolution of the Cabinet of Ministers of Ukraine No. 194 dated 03.03.2022)</u></p> <p><u>and</u></p>	<p>Para. 2<sup>6</sup> of Rules No. 57</p> <p>(defining the category of persons, but not stipulating either the conditions for departure, or</p>

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	<u>Cabinet of Ministers of Ukraine</u>	<u>Documents on a business trip abroad</u>	requirements for confirming documents)  <u>Clarification of the SBGSU (stipulating the conditions for departure and requirements for supporting documents)</u>
29	<u>A person recognized in accordance with the established procedure as temporarily unfit for military service for health reasons for a period of up to six months</u>	<u>The conclusion of the military medical commission on temporary unfitness for military service for health reasons for a period of up to six months (followed by examination by the medical commission)</u>	Para. 2 <sup>6</sup> of Rules No. 57  <u>Explanation of the SBGSU</u>
30	<u>Person removed (excluded) from the military registry</u>	<u>Decision of the military medical commission on unfitness for military service subject to exclusion from the military registry</u>	Para. 2 <sup>6</sup> of Rules No. 57  <u>(defining the category of persons, but not stipulating the requirements for supporting documents)</u>  <u>Clarification of the SBGSU (defining the supporting documents)</u>
31	<u>A man (woman) who has three or more children under the age of 18, including those from different marriages, as dependents</u>	<u>Documents confirming the maintenance of three or more children under the age of 18:</u>  <u>Birth certificates of children (three or more),</u>  <u>or</u>  <u>A court decision on divorce and determination of the place of children's residence with their father, or</u>  <u>A court decision on divorce and a decision of the guardianship and custody authority determining that the children shall reside with their father,</u>  <u>or</u>  <u>A certificate of the father of a large family.</u>	Para. 2 <sup>6</sup> of Rules No. 57  <u>(defining the category of persons, but not stipulating the requirements for supporting documents)</u>  <u>Clarification of the SBGSU (defining the supporting documents)</u>

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		<p><u>If the man does not share the household with his child(-ren), evidence of the maintenance of such child(-ren), which may have the form of:</u></p> <p><u>A court decision on child (children) maintenance</u></p> <p><u>and</u></p> <p><u>A certificate from the executive service confirming the absence of arrears in the payment of alimony, the amount of such alimony, etc.</u></p>	
32	<u>A man who is the father of three or more children</u>	<p><u>For traveling outside Ukraine with or without children:</u></p> <p><u>Birth certificates of children (three or more) or notarized copies their</u></p>	<p><u>Para. 2<sup>6</sup> of Rules No. 57</u></p> <p><u>(defining the category of persons, but not stipulating the requirements for supporting documents)</u></p> <p><u>Clarification of the SBGSU (defining the supporting documents)</u></p>
33	<u>A man (woman) who is raising one or more children under the age of 18 on his/her own</u>	<p><u>Birth certificate of the child (children)</u></p> <p><u>and</u></p> <p><u>Death certificate of the child's mother, or</u></p> <p><u>A court decision depriving the mother of parental rights,</u></p> <p><u>or</u></p> <p><u>A court decision to take a child from his or her mother without depriving him or her of parental rights, or</u></p> <p><u>A court decision recognizing the mother as missing,</u></p> <p><u>or</u></p> <p><u>A court decision declaring the mother dead.</u></p> <p><u>If a man remarries, he shall no longer be considered a person who is raising a child under the age of 18 on his own</u></p>	<p><u>Para. 2<sup>6</sup> of Rules No. 57</u></p> <p><u>(defining the category of persons, but not stipulating the requirements for supporting documents)</u></p> <p><u>Clarification of the SBGSU (defining the supporting documents)</u></p>
34	<u>A man (woman) who has a minor child (children) and a wife (husband) who is performing military duty in one of the types of military service specified</u>	<u>Not defined</u>	<p><u>Para. 2<sup>6</sup> of Rules No. 57</u></p>



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	<u>in part six of Article 2 of the Law of Ukraine on Military Duty and Military Service</u>		
<u>35</u>	<u>People's Deputy of Ukraine</u>	<p style="text-align: center;"><u>A diplomatic or official passport</u></p> <p style="text-align: center;"><u>and</u></p> <p style="text-align: center;"><u>Duly certified copies of documents certifying the fact of traveling abroad on a business trip</u></p>	<p>Para. 2<sup>6</sup> of Rules No. 57</p> <p><u>(defining the category of persons, but not stipulating the requirements for supporting documents or conditions of departure)</u></p> <p><u>Clarification of the SBGSU (defining the conditions of departure and supporting documents)</u></p>
<u>36</u>	<u>Persons from the defense and security forces affected by the military aggression of the Russian Federation against Ukraine</u>	<p><u>When traveling outside Ukraine for treatment abroad:</u></p> <p style="text-align: center;"><u>Passport of a citizen of Ukraine for traveling abroad</u></p> <p style="text-align: center;"><u>or</u></p> <p style="text-align: center;"><u>Passport of a citizen of Ukraine</u></p> <p style="text-align: center;"><u>(if they are not available, documents containing information about the person on the basis of which the State Border Guard Service will allow crossing the state border),</u></p> <p style="text-align: center;"><u>and</u></p> <p style="text-align: center;"><u>A conclusion on the need to refer a person for treatment abroad,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>A letter from the Ministry of Health on the list of persons agreed with a foreign party whom foreign healthcare institutions may accept for treatment abroad</u></p>	<p>Para. 2<sup>7</sup> of Rules No. 57</p>
<u>37</u>	<u>Family members of the first degree of kinship (within the meaning of sub-paragraph 14.1.263 of paragraph 14.1 of Article 14 of the Tax Code of Ukraine) of persons from</u>	<p><u>When accompanying the persons from the defense and security forces affected by the military aggression of the Russian Federation against Ukraine traveling outside Ukraine for treatment abroad:</u></p> <p style="text-align: center;"><u>Passport of a citizen of Ukraine for traveling abroad</u></p>	<p>Para. 2<sup>7</sup> of Rules No. 57</p>

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	<u>the defense and security forces affected by the military aggression of the Russian Federation against Ukraine</u>	<p style="text-align: center;"><u>or</u></p> <p style="text-align: center;"><u>Passport of a citizen of Ukraine</u> (if they are not available, documents containing information about the person on the basis of which the State Border Guard Service will allow crossing the state border),</p> <p style="text-align: center;"><u>and</u></p> <p style="text-align: center;"><u>A conclusion on the need to refer a person for treatment abroad,</u></p> <p style="text-align: center;"><u>and</u></p> <p style="text-align: center;"><u>A letter from the Ministry of Health on the list of persons agreed with a foreign party whom foreign healthcare institutions may accept for treatment abroad</u></p>	
<u>38</u>	<u>A driver carrying out the transportation of medical goods or humanitarian aid by motor vehicles for the needs of the Armed Forces of Ukraine, other military formations established in accordance with the laws of Ukraine, as well as the population of Ukraine</u>	<p style="text-align: center;"><u>A decision authorizing the drivers who carry out transportation for the needs of the Armed Forces, other military formations established in accordance with the laws of Ukraine, as well as medical cargoes and humanitarian aid cargoes by road to leave Ukraine, adopted by the Ministry of Infrastructure or regional, Kyiv city military administrations,</u></p> <p style="text-align: center;"><u>and</u></p> <p style="text-align: center;"><u>If information about the person is available in Shliakh information system</u></p>	<p style="text-align: center;"><u>Para. 2<sup>8</sup> of Rules No. 57</u></p> <p style="text-align: center;"><u>Explanation of the SBGSU</u></p>
<u>39</u>	<u>Drivers of vehicles of business entities that are licensed to carry out economic activities in the international transportation of goods and passengers by road transport</u>	<p style="text-align: center;"><u>If information about the person is available in Shliakh information system</u></p>	<p style="text-align: center;"><u>Para. 2<sup>9</sup> of Rules No. 57</u></p> <p style="text-align: center;"><u>Explanation of the SBGSU</u></p>
<u>40</u>	<u>Employees of railway transport enterprises who ensure the functioning and smooth operation of the railway</u>	<p style="text-align: center;"><u>A decision authorizing the employees of railway transport companies who ensure the functioning and smooth operation of the railway to leave Ukraine made:</u></p> <p style="text-align: center;"><u>in respect of employees of Ukrainian Railways JSC and railway transport enterprises under the jurisdiction of the Ministry of Infrastructure – by the Ministry of Infrastructure;</u></p> <p style="text-align: center;"><u>in respect of employees of enterprises for which freight rail transport is not the main type of activity – by regional and Kyiv city military administrations at the location of such enterprises</u></p>	<p style="text-align: center;"><u>Para. 2<sup>10</sup> of Rules No. 57</u></p>

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41	<u>An athlete included in the national teams of Ukraine in Olympic, non-Olympic sports and sports of persons with disabilities in accordance with the established procedure</u>	<u>Decision of the Ministry of Youth and Sports on the inclusion of a person in the list of sporting event participants</u>	<u>subpara. 1 of para. 2<sup>11</sup> of Rules No. 57</u>
42	<u>A coach from the national teams of Ukraine who arranges training of athletes included in the national teams of Ukraine in Olympic, non-Olympic sports and sports of persons with disabilities</u>	<u>Decision of the Ministry of Youth and Sports on the inclusion of a person in the list of sporting event participants</u>	<u>subpara. 1 of para. 2<sup>11</sup> of Rules No. 57</u>
43	<u>Sports referees and specialists providing organizational, scientific, methodological and medical support, anti-doping control over the training of athletes included in the national teams of Ukraine in Olympic, non-Olympic sports and sports of persons with disabilities for participation in sporting events held abroad</u>	<u>Decision of the Ministry of Youth and Sports on the inclusion of a person in the list of sporting event participants</u>	<u>subpara. 1 of para. 2<sup>11</sup> of Rules No. 57</u>
44	<u>An athlete included in the teams of sports clubs of the highest divisions in playing sports</u>	<u>A letter from the Ministry of Youth and Sports, or in its absence – from the person performing its duties, to the State Border Guard Service regarding the person's participation in a sports event and crossing of the state border</u>	<u>subpara. 2 of para. 2<sup>11</sup> of Rules No. 57</u>
45	<u>A coach included in the teams of sports clubs of the highest divisions in playing sports</u>	<u>A letter from the Ministry of Youth and Sports, or in its absence – from the person performing its duties, to the State Border Guard Service regarding the person's participation in a sports event and crossing of the state border</u>	<u>subpara. 2 of para. 2<sup>11</sup> of Rules No. 57</u>
46	<u>Persons providing organizational, scientific, methodological or medical support who are included in the teams of sports clubs of the highest divisions in playing sports</u>	<u>A letter from the Ministry of Youth and Sports, or in its absence – from the person performing its duties, to the State Border Guard Service regarding the person's participation in a sports event and crossing of the state border</u>	<u>subpara. 2 of para. 2<sup>11</sup> of Rules No. 57</u>

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47	<u>Sports referees or arbitrators to participate in sporting events held abroad</u>	<u>A letter from the Ministry of Youth and Sports, or in its absence – from the person performing its duties, to the State Border Guard Service regarding the person's participation in a sports event and crossing of the state border</u>	<u>subpara. 2 of para. 2<sup>11</sup> of Rules No. 57</u>
48	<u>A cadet of an educational institution – for practical training on ships</u>	<p><u>A seafarer's identity card,</u></p> <p><u>and</u></p> <p><u>A certificate from the educational institution on sending a cadet for practical training on a ship under Ukrainian or a foreign flag,</u></p> <p><u>and</u></p> <p><u>Military registration documents with relevant marks of the district (united district), city (district in cities, united city) territorial recruitment and social support center,</u></p> <p><u>and</u></p> <p><u>A permission to leave the place of residence issued by the head of the relevant district (city) territorial center for recruitment and social support (for persons liable for military service and reservists of the Security Service of Ukraine or the Foreign Intelligence Service of Ukraine – a permission issued by a relevant head) for presentation to authorized officials of the State Border Guard Service when crossing the border</u></p>	<p><u>Para. 2<sup>12</sup> of Rules No. 57</u></p> <p><u>Explanation of the SBGSU</u></p>
49	<u>A person traveling to work on ships as part of the crews of ships sailing to/from the seaports of Ukraine and who received the appropriate education and qualifications before 24.02.2022</u>	<p><u>When leaving Ukraine to work on ships as part of the crews of ships sailing to/from the seaports of Ukraine:</u></p> <p><u>Seafarer's identity card, and</u></p> <p><u>A role on the ship (a crew list),</u></p> <p><u>and</u></p> <p><u>A confirmation from the Shipping Administration of receipt of copies of educational and qualification documents.</u></p> <p><u>When leaving Ukraine to work on seagoing vessels on inland navigation vessels as part of the crews of such vessels:</u></p> <p><u>A seafarer's identity card,</u></p> <p><u>and</u></p> <p><u>A confirmation from the Shipping Administration on receipt of copies of educational and qualification documents,</u></p> <p><u>and</u></p>	<p><u>Para. 2<sup>12</sup> of Rules No. 57</u></p> <p><u>Explanation of the SBGSU</u></p>

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		<p><u>Military registration documents with relevant marks of the district (united district), city (district in cities, united city) territorial recruitment and social support center,</u></p> <p style="text-align: center;"><u>And</u></p> <p><u>Employment agreement (contract) for work on a sea vessel on inland navigation vessel</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>A letter from the shipowner or ship operator stating its intention to enter into an employment agreement (contract) with a citizen of Ukraine to work on a sea vessel or inland navigation vessel,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>A permission to leave the place of residence issued by the head of the relevant district (city) territorial center for recruitment and social support (for persons liable for military service and reservists of the Security Service of Ukraine or the Foreign Intelligence Service of Ukraine – a permission issued by a relevant head)</u></p>	
50	<p><u>A graduate of an educational institution who completed their studies during martial law</u> <u>- to work on ships</u></p>	<p><u>When leaving Ukraine to work on board of ships as part of the crews of ships sailing to/from Ukrainian seaports:</u></p> <p style="text-align: center;"><u>A seafarer's identity card,</u></p> <p style="text-align: center;"><u>and</u></p> <p style="text-align: center;"><u>A role on the ship (a crew list),</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>A confirmation from the Shipping Administration of receipt of copies of educational and qualification documents.</u></p> <p><u>When leaving Ukraine to work on seagoing vessels on inland navigation vessels as part of the crews of such vessels:</u></p> <p style="text-align: center;"><u>A seafarer's identity card,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>A confirmation from the Shipping Administration on receipt of copies of educational and qualification documents,</u></p> <p style="text-align: center;"><u>and</u></p> <p><u>Military registration documents with relevant marks of the district (united district), city (district in cities, united city) territorial recruitment and social support center,</u></p> <p style="text-align: center;"><u>And</u></p>	<p><u>Para. 2<sup>12</sup> of Rules No. 57</u></p> <p><u>Explanation of the SBGSU</u></p>

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		<p><u>Employment agreement (contract) for work on a sea vessel on inland navigation vessel or a letter from the shipowner or ship operator stating its intention to enter into an employment agreement (contract) with a citizen of Ukraine to work on a sea vessel or inland navigation vessel,</u></p> <p><u>and</u></p> <p><u>A permission to leave the place of residence issued by the head of the relevant district (city) territorial center for recruitment and social support (for persons liable for military service and reservists of the Security Service of Ukraine or the Foreign Intelligence Service of Ukraine – a permission issued by a relevant head)</u></p>	
51	<u>A man permanently residing abroad</u>	<p><u>If there are appropriate marks in the passport document:</u></p> <p><u>- a note of the migration service in the passport document "Permanent residence in "____"/ stamp" Departure for permanent residence has been issued "(country name and date);</u></p> <p><u>- a note of the diplomatic mission of Ukraine in the passport document "Permanent residence "____"/"Accepted for consular registration" or a certificate of consular registration generated using the means of the departmental information system of the MFA</u></p>	<u>Explanation of the SBGSU</u>
52	<u>A man who has the right of temporary residence in a EU member state and who is accepted for temporary consular registration abroad</u>	<u>A relevant passport document with stamps of the State Migration Service of Ukraine "Registered the departure for permanent residence" and the diplomatic mission of Ukraine "Accepted for consular registration"</u>	<u>Explanation of the SBGSU</u>
53	<u>A man (woman) whose close relatives (husband, wife, son, daughter, father, mother, grandfather, grandmother or sibling (full or half) were killed or went missing during the implementation of actions to ensure national security and defense, repulse and deter the armed aggression of the Russian Federation in Donetsk and Luhansk regions, as well as during the implementation of actions to ensure national security</u>	<u>Not defined</u>	<u>Para. 2<sup>6</sup> of Rules No. 57</u>

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	<u>and defense, repulse and deter the armed aggression against Ukraine during martial law</u>		
<u>54</u>	<u>A person who is a member of the aviation personnel and works for an aviation entity that is a resident of Ukraine</u>	<u>A copy of the concluded employment agreement (contract) certified by the resident aviation entity</u> <u>or</u> <u>An agreement for simulator training concluded between an aviation entity or an aviation personnel and an organization located outside Ukraine,</u> <u>and</u> <u>A confirmation provided by the State Aviation Administration that a person is a member of the aviation personnel and has the appropriate certificate(s),</u> <u>and</u> <u>An order of the aviation entity on the business trip of a person abroad</u>	<u>Para. 2<sup>13</sup> of Rules No. 57</u>
<u>55</u>	<u>A person who is a member of the aviation personnel and is employed or intends to be employed by a non-resident aviation entity</u>	<u>A copy of the concluded employment agreement (contract) with a non-resident aviation entity,</u> <u>or</u> <u>A letter from a non-resident aviation entity stating its intention to enter into an employment agreement (contract),</u> <u>or</u> <u>A copy of the concluded agreement for simulator training between the aviation personnel and the organization located outside Ukraine,</u> <u>and</u> <u>A confirmation provided by the State Aviation Administration that a person is a member of the aviation personnel and has the appropriate certificate(s),</u> <u>and</u> <u>Military registration documents with relevant marks of the district (united district), city (district in cities, united city) territorial recruitment center and</u> <u>social support,</u> <u>and</u> <u>A permission to leave the place of residence, issued by the head of the relevant district (city) territorial center of</u>	<u>Para. 2<sup>13</sup> of Rules No. 57</u>



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		<u>recruitment and social support (for persons liable for military service and reservists of the Security Service of Ukraine or the Foreign Intelligence Service – a permission issued by the relevant head) for presentation to the authorized officials of the State Border Guard Service when crossing the border</u>	
<u>56</u>	<u>State Aviation Supervision Inspector and a person authorized to conduct inspections of the State Aviation Service</u>	<u>Order of the State Aviation Service on the business trip of a state aviation supervision inspector or a person authorized to conduct inspections abroad</u>	<u>Para. 2<sup>13</sup> of Rules No. 57</u>
<u>57</u>	<u>Employees of Ukraina State Aviation Enterprise</u>	<u>Order of the company on business trip of an employee abroad</u>	<u>Para. 2<sup>13</sup> of Rules No. 57</u>

Note: this document does not contain any legal provisions or explanations on the application of the law and is intended for informational and reference purposes only.

## Annex 4: UNHCR written note



**Request from The Danish Immigration Service (DIS)  
Procedures at Ukrainian Border Control Posts (BCPs)  
April 2023**

The information contained herein should not be used, provided or interpreted without a reference to UNHCR's full response in its entirety. The information is valid as of 6 April 2023. This note primarily provides observations on the practice of the State Border Guard Service of Ukraine (SBGS). The practice of Border Guards from neighbouring countries may be mentioned when directly reported to UNHCR in Ukraine.

**1) According to your observation and knowledge, are the SBGS procedures at the BCPs uniform / standardized?**

UNHCR and its partners have observed the following examples of inconsistencies with regards to SBGS procedures at the BCPs:

- During martial law, male citizens aged 18 to 60 are not allowed to leave Ukraine, except those listed in Article 23 of the Law of Ukraine "On Mobilization Training and Mobilization". However, UNHCR partners reported cases of males who were not subject to conscription for military service but were denied border crossing by Ukrainian Border Guards not in conformity with legislation.
- There were also inconsistent practices regarding the exit of Ukrainian students studying in foreign institutions in the spring/summer of 2022 (see answer to subquestions below).
  - **Are there situations where SBGS takes decisions at the borders that are not corresponding with the exit regulations?**

There are cases of appeals against SBGS decisions of denied crossing. However, courts have no consistent case law on this matter, including because of the frequent changes to the regulations relating to the border crossing. For example, regarding Ukrainian students studying in foreign institutions of higher education, courts have issued both judgements upholding their right to leave the country and confirming the suspension of this right.

- **Are there instances where some rules have been arbitrarily enforced?**

Since 2 April 2022, an amendment to Resolution No. 57<sup>1</sup> has been in effect that prohibits students (those who have the right to deferment from mobilization) from crossing the border. However, following internal instructions from various institutions,<sup>2</sup> Border Guards allowed students who studied in foreign institutions of

<sup>1</sup> Clause 2 of the Rules for Crossing the State Border by Citizens of Ukraine, approved by Resolution No. 57 of the Cabinet of Ministers of Ukraine, 27 January 1995: <https://zakon.rada.gov.ua/laws/show/57-95-%D0%BF#Text>

<sup>2</sup> For instance, Letter of the [Commander-in-Chief of the Armed Forces of Ukraine General V. Zaluzhnyi](#) dated March 24, 2022 No. 300/1/0/962, addressed to the Head of the State Border Guard Service of Ukraine; answers of the Ministry of Defense of Ukraine dated April 13, 2022 No. 220/2610 and the Administration of the [State Border Guard Service of Ukraine](#) dated April 10, 2022 No. 23-844/0/6/-22 to the deputy appeal of the People's Deputy of Ukraine Y. Hryshyna, [explanatory infographics](#) on crossing the border by students studying abroad, prepared by the Ministry for

higher education to cross the border (while the legislation remained unchanged). In fall 2022, new internal instructions were issued, according to which students were no longer authorized to cross the border

- Have there been instances where persons were rejected at one BCP but could cross the border at another BCP?

There were cases of third country nationals who were not allowed to leave the country by the Ukrainian Border Guards at BCPs along the border with Poland but were able to cross the border elsewhere (e.g., refugees with complementary protection status in Ukraine, with or without travel documents). UNHCR is also aware of several other cases of third country nationals who first were denied border crossing by the Polish Border Guards due to lack of Schengen visa, but were later permitted to enter Slovakia/Romania/Moldova (December 2022 -January 2023).

- 2) Does the regular amendment of rules (resolution 57) often contribute to inconsistency in procedures at the BCPs?

Yes, the frequent amendments of Resolution No. 57 may lead to inconsistent practices and implementation of the legislative or regulatory framework at BCPs, for example regarding students. On 1 April 2022, amendments came into force that granted the right to leave to certain categories of persons bound to perform military service<sup>3</sup>. However, on 2 April 2022, changes to this provision included in Resolution No. 399 of 1 April 2022 entered into force invalidating the amendment of 31 March 2022, and established that the following persons bound to perform military service but who have a deferment cannot cross the border:

- students of professional (vocational and technical), vocational pre-university and higher education facilities, trainee assistants, graduate students and doctoral students who are studying on a full-time or dual basis;
- scientific and scientific-pedagogical employees of institutions of higher and vocational pre-university education, scientific institutions and organizations who have an academic title and/or a scientific degree, and pedagogical employees of professional (vocational-technical) education institutions, general secondary education institutions, provided that they work, respectively, in institutions of higher or professional pre-university education, scientific institutions and organizations, institutions of professional (vocational and technical) or general secondary education as the main place of work at least at 0.75 rate.

As per the Council of Ministers Resolution No. 1212, 28 October 2022, the certificate of examination by the medical and social expert commission (primary accounting documentation form No. 157-1/o) was removed from the list of documents required for men with disabilities to cross the border. However, as of 27 March 2023, the SBGS website still displayed the information that the certificate was required.

- For instance, if it takes time for SBGS to adjust to the new regulations?

Through Resolution No. 69 of 27 January 2023, the Cabinet of Ministers made changes to Resolution No. 57, prohibiting the majority of public servants to leave Ukraine. However, the implementation of this new rule

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Reintegration of the Temporarily Occupied Territories of Ukraine together with the General Staff of the Armed Forces of Ukraine and the State Border Guard Service of Ukraine.

<sup>3</sup> Council of Ministers Resolution, 29 March 2022, No. 383 "On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine", which entered into force on April 1, 2022. <https://zakon.rada.gov.ua/laws/show/383-2022-%D0%BF/ed20220401#Text>



proved difficult, as there was no database of public servants whose travel was restricted on the day the resolution entered into force.

It should be noted that on 10 February 2023, these restrictions were changed, enlarging the list of public servants allowed to leave the country.

**3) Are there situations where some BCPs accepts alternative documents?**

In February-March 2022, there were several cases of mothers leaving the country with newborn children based on a medical certificate of birth from a maternity hospital, instead of a birth certificate (issued by Civil Registries) or a travel document issued for the child.

Following the simplified border controls during the first weeks following the full-scale Russian invasion of Ukraine, third country nationals, including refugees and holders of complementary protection in Ukraine, were able to leave Ukraine and seek safety in EU countries and Moldova without documents provided in the Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons" (art. 15). Since June 2022, the SBGS mostly resumed a strict implementation of the law.

**4) Are you aware if there have been instances where persons have been granted permission to exit irrespective of the exit regulations?**

See answer to question 3 above.

- Are there situations when men are allowed to cross the border, but do not have the legal documents?

See answer to question 1 above.

**5) According to your monitoring work what are the biggest challenges in terms of verifying the ground for legal exit at the BCPs?**

Cases of families with children can be challenging. Family ties are carefully checked, which can take some time. Specific documents may be required, in particular, if the children are not accompanied by their parents or grandparents.

During the attacks on the electric power grid in Ukraine from October to January 2022, the SBGS frequently faced interruptions of their access to databases (both Ukrainian and Interpol's) used for checking personal data, which slows down the verification process.

**6) We were informed that an internal SBGS resolution gives persons with residential registration in areas of active hostilities permission to cross the border with Ukrainian passport, whereas remaining Ukrainian citizens are required to present their international passports. Is this the procedure only at Ukrainian / Polish border or at BCP bordering other countries as well?**

The website of the State Border Service of Ukraine<sup>4</sup> states that particular categories of Ukrainians evacuating from areas of hostilities (women, children and disabled persons) can leave Ukraine with an internal passport. This applies to the border with EU countries and Moldova. The website of the SBGS recommends that people

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<sup>4</sup> [Crossing the state border during the legal regime of martial law. Question-answers \(dpsu.gov.ua\)\(in Ukrainian\)](#)

should approach competent authorities in the country of the European Union to which the trip is planned in order to clarify whether the Ukrainian passport will be sufficient to enter the country.

- 7) We understood following from our meeting with R2P "towards the end of 2022 it was added to the rules that persons with disability are required to present a pension certificate in addition to the medical certificate. The issuance of the pension certificate took one month and at that time there was no unified template for certificate, which was a reason for the rejection at the border by the SBGS". Can you confirm if this is correctly understood and whether a unified template for the pension certificate is now adopted?

As per Resolution No. 47, documents which can be presented by men with disabilities for crossing the border include:

- a certificate confirming the relevant status, OR
- a pension certificate OR
- a certificate confirming the appointment of social assistance in accordance with the Laws of Ukraine "On state social assistance to persons with disabilities from childhood and children with disabilities", "On state social assistance to persons who do not have the right to a pension and persons with disabilities", in which the group and cause of disability is specified, OR
- certificates for receiving benefits by persons with disabilities who do not have the right to a pension or social assistance, in the form approved by the Ministry of Social Policy

Regarding the pension certificate, both the electronic version on the Diya application and a paper version are valid and have the same legal force. However, the SBGS has denied the border crossing to people only presenting the electronic pension, as it is not specifically mentioned among the documents in Resolution No 47. This practice has been confirmed to UNHCR partners on the SBGS hotline.

Please note also that the certificate of examination by the medical and social expert commission (primary accounting documentation form No. 157-1/o) is no longer required for crossing the border (it was removed from the list by the Council of Ministers Resolution No. 1212, 28 October 2022). However, as of March 27, 2023, the website of the SBGS still listed the certificate as required.

#### Forgery of documents

- 8) Do you know how many (estimation) have attempted to cross the border with forged documents?

According to SBGS data, about 4,100 people attempted to leave the country with forged documents<sup>5</sup>.

- How many have been detected for crossing the border with forged documents?

Since the beginning of Russia's invasion of Ukraine, the SBGS has detained more than 11,000 individuals who attempted to cross the border illegally, through the green border. Another 4,100 tried to leave with forged documents<sup>6</sup>. Most of the people were apprehended along the borders with Romania and Moldova.

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<sup>5</sup> "SBGS has detained more than 11,000 border violators since the beginning of the full-scale war" (suspilne.media), 7 March 2023 (in Ukrainian)

<sup>6</sup> [idem](#)



- 9) According to your knowledge, what is the prevalence of black markets / cottage industries for forging documents?

We have no information on the prevalence. For reports of document forging, see for example cases reported by the Odesa Regional Prosecutor Office:

[https://od.gp.gov.ua/ua/news.html?\\_m=publications&\\_c=view&\\_t=rec&id=331032](https://od.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=331032)

- 10) Who are most often the perpetrators of forging documents? Officials or private persons?

We have no information on this.

- 11) Are there examples of abuse from authorities in terms of providing forged documents? Or selling legal documents?

We have no information on this.

- 12) What type of documents are most often subject to forgery?

According to the SBGS<sup>7</sup>, the following forged documents are most often found with offenders: documents confirming the studies in foreign universities, certificates of unfitness for military service, certificates of disability and documents confirming the fact that a particular man has many children.

- 13) What is the punishment sentenced to persons attempting to cross the border with forged documents?

Article 332, para. 1, of the Criminal Code of Ukraine, foresees three to five years imprisonment in cases of illegal transportation of persons across the state border of Ukraine, organization of illegal transportation of persons across the state border of Ukraine, directing such actions or facilitating their commission by advice, instructions, provision of means or removal of obstacles

Article 358, para.1, of the Criminal Code of Ukraine, foresees a fine of up to one thousand UAH<sup>7</sup> of the tax-free minimum income of citizens, arrest for a term of up to six months, or imprisonment for a term of up to two years in cases of forging of a certificate or other official document issued or certified by an enterprise, institution, organization, citizen-entrepreneur, notary, state registrar, subject of state registration of rights, person authorized to perform state functions regarding the registration of legal entities, natural persons - entrepreneurs and public formations, by a state executor, a private executor, an auditor or another person who has the right to issue or certify such documents, and who grants rights or exempts from obligations, for the purpose of using it by a forger or by another person or the sale of such a document, as well as the production of forged seals, stamps or forms of enterprises, institutions or organizations regardless of the form of ownership, other official seals, stamps or forms with the same purpose or their sale.

Article 358, para. 4, of the Criminal Code of Ukraine, foresees a fine of up to UAH 850 (tax-free minimum income (UAH 17) x 50) or arrest for a term of up to six months, or imprisonment for a term of up to two years in cases of use of a knowingly forged document -

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<sup>7</sup> ["Two even swam across the river. How fraudsters are caught at the border and what awaits them."](https://tvoemisto.tv) (tvoemisto.tv), 18 August 2022 (in Ukrainian)

There is also an administrative penalty for crossing or attempting to cross the state border beyond official cross-border checkpoints; or within official cross-border checkpoints, but (i) without the proper documentation, (ii) using forged documents, (iii) documents containing inaccurate personal information, or (iv) without obtaining permission from the appropriate authorities. Article 204-1 of the Code of Administrative Offenses of Ukraine establishes liability for such actions in the form of a fine ranging from UAH 3400 to 8500 (tax-free minimum income (17 UAH) x 200 to 500) or administrative arrest for a period of up to fifteen days, accompanied by the confiscation of tools and means used to commit the offence.

**14) What is the procedure at the border if someone is detected for crossing the border with forged documents?**

Upon detection of an illegal border crossing, the SBGS officer informs the National Police. S/he then hands over the forged documents and the person who provided them to the police team at the BCP. Further on, within the framework of criminal proceedings under Article 358 of the Criminal Code of Ukraine, investigation is conducted to establish whether the document is valid or forged.

**15) How has the situation of forged documents changed over time over the past year?**

On 30 July 2022, the SBGS reported an increased use of forged documents by men of conscription age for leaving the country, with more than 2,200 cases recorded from 24 February to 30 July 2022<sup>8</sup>.

#### Illegal border crossing

**16) What penalty is sentenced to men liable for military service who are detected for attempting to cross the border illegally at the BCP but also beyond formal BCPs?**

Penalties for evasion from conscription for military service, military service for conscription of officers: restriction of liberty for up to three years (article 335, Criminal Code of Ukraine).

Penalties for evasion from conscription during mobilization: imprisonment for a term of three to five years (article 336, Criminal Code of Ukraine).

Penalties for evasion from civil defence service: imprisonment for a term of two to five years (article 336-1, Criminal Code Ukraine)

For evasion from conscription, a person may face criminal liability in the form of imprisonment for a term of three to five years (Article 336, para.1, of the Criminal Code of Ukraine), while illegal border crossing is subject to an administrative fine of UAH 3,400 to 85,000 or a up to 15 days of detention, with the confiscation of tools and means of committing the offense.

As per the current judicial practice, courts generally impose a prison sentence for conscription evasion but release convicts from serving the imposed sentence with a probationary period.

**17) Can you briefly outline the list of relevant articles from administrative law and the criminal code that can potentially be sentenced to persons crossing the border illegally? / What legal articles (from the criminal code and administrative law) govern the punishment of persons crossing the border illegally out of Ukraine?**

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<sup>8</sup> ["Since the beginning of martial law, border guards have discovered 2,200 forged documents at the borders with the EU" \(dpsu.gov.ua\), 30 July 2022 \(in Ukrainian\)](#)



Article 332 of the Criminal Code of Ukraine; Article 336 of the Criminal Code of Ukraine; Article 358 of the Criminal Code of Ukraine; Article 204-1 of the Code of Administrative Offenses (described above in detail).

#### Organized human smuggling

18) Can you provide statistics on how many cases of organised human smuggling there have been?

See:

Global Initiative Against Transnational Organised Crime, *New Frontlines – Organised Criminal Economies in Ukraine in 2022*, Research Report, February 2023 ([New front lines: Organized criminal economies in Ukraine in 2022 | Global Initiative](#)). See section "New vulnerabilities: people, smuggling, corruption", pages 25ff

United Nations Office on Drugs and Crime, *Conflict in Ukraine: Key Evidence on Risks of Trafficking in Persons and Smuggling of Migrants*, UNODC research, updated February 2023 ([https://www.unodc.org/documents/data-and-analysis/tip/Conflict\\_Ukraine\\_TIP\\_2022.pdf](https://www.unodc.org/documents/data-and-analysis/tip/Conflict_Ukraine_TIP_2022.pdf))

19) Are smuggling more common in some border areas than others?

We have no information on this.

20) Are you aware of the prevalence of organised human smuggling networks?

We have no information on this.

21) Is a person who has been smuggled out of Ukraine subject to any sanctions upon his return to Ukraine?

We have no information on this.

#### Corruption

22) Are there any suspicion of cases of illegal border crossings with the assistance of SBGS officials or other authorities?

We have no information on this.

23) How is corruption at the BCPs prevented? / What measures are put in place to prevent corruption in the exit regulations?

We have no information on measures by the SGGs. However, UNHCR deploys border monitoring teams at key border control points along the Ukrainian western border. Border teams disseminate information on the rights of persons crossing the border, border crossing procedures, responsibilities of State Border Guards, provides legal advice, and accompanies persons in need of legal assistance. UNHCR border monitors in Ukraine are in touch with UNHCR border teams in neighbouring countries to support border crossing and to ensure cross-border referral.

#### Forced recruitment

24) Have you come across information that the military has increased the use of forced recruitment to the military forces?

We have no information on this.

**Punishment of evaders and deserters**

25) Do you know if evaders and deserters face negative societal consequences / reprisals?

We have no information on this.

- Are there cases where family members / relatives of military evaders and deserters are subject to punishment?

We have no information on this.

**Other questions**

26) Are there any current debates in the government to call up women for military service?

As per the Cabinet of Ministers Resolution No. 1487, 30 December 2022<sup>9</sup>, there will be no mandatory conscription for Ukrainian women until 2026, even for Ukrainian women who have a medical expertise, the only one expertise for which they can be mobilized. Women can be conscripted on a voluntary basis.

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<sup>9</sup> <https://www.kmu.gov.ua/npas/pro-zatverdzhennia-poriadku-orhanizatsii-ta-vedennia-viiskovoho-obliku-pryzovnykiv-viiskovozoboviazanykh-ta-rezervistiv-i301222-1487>

## Annex 5: Translated legislation

### Annex 5.1: Amendments to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and Other Regulations of Ukraine

#### *LAW OF UKRAINE*

##### **on Amendments to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and Other Regulations of Ukraine on the Peculiarities of Military Service During Martial Law or in Combat Situations**

The Verkhovna Rada of Ukraine hereby **r e s o l v e s** as follows:

I. To amend the following legislative acts of Ukraine:

1. In the [Code of Administrative Offenses of Ukraine](#) (Vidomosti Verkhovnoi Rady USSR, 1984, Annex to No. 51, Art. 1122):

1) in [part one](#) of Article 32<sup>-1</sup>, replace the words "up to ten days" with the words "up to fifteen days";

2) in [Article 172<sup>-10</sup>](#):

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to five hundred" and the words "up to seven days" with the words "up to ten days";

in part two:

the first paragraph shall be supplemented with the words "except for martial law";

in the second paragraph, replace the words "from one hundred forty-five to two hundred and eighty-five" with the words "from five hundred to one thousand" and the words "from seven to ten days" with the words "from ten to fifteen days";

3) in [Article 172<sup>-11</sup>](#):

in the second paragraph of part one, replace the words "up to five days" with the words "up to ten days";

in the second paragraph of part two, replace the words "up to ten days" with the words "up to fifteen days";

in the second paragraph of part three, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from five hundred to one thousand", and the words "up to seven days" shall be replaced with the words "up to ten days";

in part four:

the first paragraph shall be supplemented with the words "except for martial law";

in the second paragraph, replace the words "from one hundred forty-five to two hundred and eighty-five" with the words "from one to two thousand" and the words "from seven to ten days" with the words "from ten to fifteen days";

4) in [Article 172<sup>-12</sup>](#):

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to one thousand" and the words "up to seven days" with the words "up to ten days";

in the second paragraph of part two, the words "from one hundred forty-five to two hundred and eighty-five" shall be replaced with the words "from one to two thousand", and the words "from seven to ten days" shall be replaced with the words "from ten to fifteen days";

5) in [Article 172<sup>-13</sup>](#):

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to one thousand" and the words "up to seven days" with the words "up to ten days";

in part two:

the first paragraph shall be supplemented with the words "except for martial law";

in the second paragraph, the words "from one hundred forty-five to two hundred and eighty-five" shall be replaced with the words "from one thousand to two thousand", and the words "from seven to ten days" shall be replaced with the words "from ten to fifteen days";

6) in [Article 172-14](#):

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to one thousand" and the words "up to seven days" with the words "up to ten days";

in the second paragraph of part two, the words "from one hundred forty-five to two hundred and eighty-five" shall be replaced with the words "from one to two thousand", and the words "from seven to ten days" shall be replaced with the words "from ten to fifteen days";

7) in [Article 172-15](#):

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to one thousand" and the words "up to seven days" with the words "up to ten days";

in the second paragraph of part two, the words "from one hundred forty-five to two hundred and eighty-five" shall be replaced with the words "from one to two thousand", and the words "from seven to ten days" shall be replaced with the words "from ten to fifteen days";

8) in [Article 172-16](#):

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to one thousand" and the words "up to seven days" with the words "up to ten days";

in the second paragraph of part two, the words "from one hundred forty-five to two hundred and eighty-five" shall be replaced with the words "from one to two thousand", and the words "from seven to ten days" shall be replaced with the words "from ten to fifteen days";

9) in [Article 172-17](#):

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to one thousand" and the words "up to seven days" with the words "up to ten days";

in the second paragraph of part two, the words "from one hundred forty-five to two hundred and eighty-five" shall be replaced with the words "from one to two thousand", and the words "from seven to ten days" shall be replaced with the words "from ten to fifteen days";

10) in [Article 172-18](#):

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to one thousand" and the words "up to seven days" with the words "up to ten days";

in the second paragraph of part two, the words "from one hundred forty-five to two hundred and eighty-five" shall be replaced with the words "from one to two thousand", and the words "from seven to ten days" shall be replaced with the words "from ten to fifteen days";

11) in [Article 172-19](#):

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to one thousand" and the words "up to seven days" with the words "up to ten days";

in the second paragraph of part two, the words "from one hundred forty-five to two hundred and eighty-five" shall be replaced with the words "from one to two thousand", and the words "from seven to ten days" shall be replaced with the words "from ten to fifteen days";

12) in [Article 172-20](#):

## UKRAINE: EXIT RULES, EXEMPTIONS FROM MILITARY SERVICE/MOBILISATION DURING MARTIAL LAW, DOCUMENTATION, PUNISHMENT OF EVADERS AND DESERTERS FROM MILITARY SERVICE

in the second paragraph of part one, the words "from seventy to one hundred and forty-five" shall be replaced with the words "from one hundred to five hundred" and the words "up to five days" with the words "up to seven days";

in the second paragraph of part two, the words "from one hundred forty-five to two hundred and fifteen" shall be replaced with the words "from five hundred to one thousand", and the words "from five to seven days" shall be replaced with the words "up to ten days";

in the second paragraph of part three, the words "from two hundred and fifteen to two hundred and eighty-five" shall be replaced with the words "from one to two thousand", and the words "from seven to ten days" shall be replaced with the words "from ten to fifteen days";

[..]

2. In the [Criminal Code of Ukraine](#) (Vidomosti Verkhovnoi Rady Ukrayiny, 2001, No. 25-26, p. 131):

1) [part one](#) of Article 69, after the words "criminal offense related to corruption", shall be supplemented with the words and figures "criminal offense under Articles 403, 405, 407, 408, 429 of this Code committed during martial law or in a combat situation";

2) [part one](#) of Article 75, after the words "criminal offense related to corruption", shall be supplemented with the words and figures "criminal offense under Articles 403, 405, 407, 408, 429 of this Code committed during martial law or in a combat situation";

3) in the [second paragraph](#) of part three of Article 403, replace the words "from three to seven" with the words "from five to eight";

4) the [first paragraph](#) of part five of Article 407 shall be set forth in the following wording:

"5. Unauthorized leaving of a military unit or place of service, as well as failure to report for duty on time without valid reasons by a serviceman committed under martial law or in a combat situation".

### II. Final provisions

1. This Law shall enter into force on the day following the day of its publication.

2. The Cabinet of Ministers of Ukraine shall, within two months from the date of entry of this Law into force:

1) align its regulations with this Law;

2) ensure the adoption of regulations required to implement the provisions of this Law;

3) ensure that ministries and other central executive authorities bring their regulations in line with this Law.

3. [Article 119](#) of the Labor Code of Ukraine (Vidomosti Verkhovnoi Rady USSR, 1971, Annex to No. 50, Art. 375) shall be supplemented by part seven as follows:

"The guarantees provided for in parts two and three of this Article shall not apply to the persons who are found guilty of criminal offenses against the established procedure for military service (military criminal offenses) during a special period and whose sentence has become final and binding."

4. [Part one](#) of Article 7 of the Law of Ukraine on the Military Service of Law Enforcement in the Armed Forces of Ukraine (Vidomosti Verkhovnoi Rady Ukrayiny, 2002, No. 32, p. 225) shall be supplemented by paragraph 33 as follows:

"33) to examine the persons liable for military service and reservists during training, as well as servicemen for the alcohol, drug or other intoxication or for being under the influence of medications impairing their attention and reaction time, and use special technical means for such examination in cases stipulated by law".

<b>President of Ukraine</b>	<b>V. ZELENSKYI</b>
<b>Kyiv December 13, 2022 No. 2839-IX</b>	

Chapter 13-B  
MILITARY ADMINISTRATIVE OFFENSES

**Article 172<sup>-10</sup>. Refusal to fulfill the lawful requirements of the commander (superior)**

Refusal to fulfill the legal requirements of the commander (superior)

shall be punishable by a fine of one hundred to five hundred tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

An act provided for in part one of this Article committed during a special period other than martial law

shall be punishable by a fine of five hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-10</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

**Article 172<sup>-11</sup>. Unauthorized leaving of a military unit or place of service**

Unauthorized leaving of a military unit or place of service by a serviceman in regular service, as well as failure to report for service on time without valid reasons in the case of discharge from a unit, appointment or transfer, failure to return from a business trip, vacation or medical institution for up to three days

shall entail arrest subject to detention in the brig for up to ten days.

Acts provided for in part one of this Article, committed by a person who has been subjected to an administrative penalty for the same violations within a year

shall entail arrest subject to detention in the brig for a period of seven to fifteen days.

Unauthorized leaving of a military unit or place of service by a serviceman (except for regular military service), as well as by persons liable for military service and reservists during training, as well as failure to report on time without valid reasons for military service in case of appointment or transfer, failure to report from a business trip, vacation or from a medical institution for up to ten days

shall be punishable by a fine of five hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

Acts envisaged by parts one or three of this Article committed during a special period, except for martial law

shall be punishable by a fine of one to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-11</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

**Article 172<sup>-12</sup>. Negligent destruction or damage to military property**

Negligent destruction or damage to weapons, ammunition, vehicles, military and special equipment or other military property

shall be punishable by a fine of one hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

Acts provided for in part one of this Article committed during a special period

shall be punishable by a fine of one to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-12</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

**Article 172<sup>-13</sup>. Abuse of power or position by a military official**



Illegal use of vehicles, facilities or other military property by a military official, use of a military official to perform tasks not related to military service, as well as the other abuse of power or official position committed for mercenary purposes or in the other personal interests or in the interests of the third parties

shall be punishable by a fine of one hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

Acts envisaged by part one of this Article committed during a special period, except for martial law

shall be punishable by a fine of one thousand to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

Note. Military officials are defined as military commanders, as well as the other servicemen who hold permanent or temporary positions related to the performance of organizational, administrative or administrative-economic duties, or perform such duties on special instructions of the authorized command.

{Article 172<sup>-13</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

#### **Article 172<sup>-14</sup>. Abuse of power or authority by a military official**

Excess of power or authority by a military official, i.e. intentional commitment of actions clearly exceeding the limits of the rights or powers granted to that person

shall be punishable by a fine of one hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

Acts provided for in part one of this Article committed during a special period

shall be punishable by a fine of one to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-14</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

#### **Article 172<sup>-15</sup>. Negligent attitude to military service**

Negligent attitude of a military official to military service

shall be punishable by a fine of one hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

An act provided for in part one of this Article committed during a special period

shall be punishable by a fine of one to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-15</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

#### **Article 172<sup>-16</sup>. Inaction of the military authorities**

Intentional failure to take actions to stop a criminal offense committed by a subordinate, or failure of a military official to report a subordinate who committed a criminal offense to a pre-trial investigation body, as well as the other intentional failure of a military official to perform his/her official duties

shall be punishable by a fine of one hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

Acts provided for in part one of this Article committed during a special period

shall be punishable by a fine of one to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-16</sup> as amended by Laws [No. 2617-VIII dated 22.11.2018](#), [No. 2839-IX dated 13.12.2022](#)}

#### **Article 172<sup>-17</sup>. Violation of the rules of combat duty**



Violation of the rules of combat duty (combat service) established for the timely detection and repulsion of a sudden attack on Ukraine or for the defense and security of Ukraine

shall be punishable by a fine of one hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

Acts provided for in part one of this Article committed during a special period

shall be punishable by a fine of one to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-17</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

#### **Article 172<sup>-18</sup>. Violation of the rules of border guard service**

Violation of the rules of border guard service by a person who is a member of a detachment charged with the guarding of the state border of Ukraine

shall be punishable by a fine of one hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

Acts provided for in part one of this Article committed during a special period

shall be punishable by a fine of one to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-18</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

#### **Article 172<sup>-19</sup>. Violation of the rules for handling weapons, as well as substances and objects that pose a high risk to others**

Violation of the rules for handling weapons, as well as ammunition, explosives, other substances and objects that pose a high risk to the environment, as well as radioactive materials

shall be punishable by a fine of one hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

Acts provided for in part one of this Article committed during a special period

shall be punishable by a fine of one to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-19</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

#### **Article 172<sup>-20</sup>. Drinking of alcoholic or low-alcohol beverages or consumption of narcotic drugs, psychotropic substances or their analogues**

Drinking of alcoholic or low-alcohol beverages or consumption of narcotic drugs, psychotropic substances or their analogues by servicemen, persons liable for military service and reservists during training in the territory of military units or military facilities, or the appearance of such persons in the territory of a military unit in a state of drunkenness, under the influence of drugs or other intoxication, or the performance of military service duties in a state of drunkenness, under the influence of drugs or other intoxication, as well as the refusal of such persons to undergo a test for alcohol, drugs, or other intoxication

shall be punishable by a fine of one hundred to five hundred tax-free minimum incomes or arrest subject to detention in the brig for up to seven days.

Involvement of superiors (commanders) and other leaders in drinking alcohol, low-alcohol beverages or consumption of narcotic drugs, psychotropic substances or their analogues with subordinate servicemen, as well as persons liable for military service and reservists during training, or failure to take actions to remove persons, who are in a state of drunkenness, drug or other intoxication, from military service, or concealment of the cases of drinking alcoholic or low-alcohol beverages, use of narcotic drugs, psychotropic substances or their analogues,

appearance in the territory of a military unit in a state of drunkenness, drug or other intoxication of subordinate servicemen, as well as persons liable for military service and reservists during training

shall be punishable by a fine of five hundred to one thousand tax-free minimum incomes or arrest subject to detention in the brig for up to ten days.

Actions envisaged by parts one or two of this Article committed by a person who was subjected to an administrative penalty for the same violations within a year or during a special period

shall be punishable by a fine of one to two thousand tax-free minimum incomes or arrest subject to detention in the brig for ten to fifteen days.

{Article 172<sup>-20</sup> as amended by Law [No. 2839-IX dated 13.12.2022](#)}

{The Code is supplemented with Chapter 13-B according to Law [No. 158-VIII dated 05.02.2015](#); as amended by Law [No. 1952-VIII dated 16.03.2017](#)}

## Annex 5.2: Translation of articles 17, 18, 22, 26 & 39 of the Law on Military Duty and Military Service

- A. Verkhovna Rada of Ukraine, *Law of Ukraine on Military Duty and Military Service*, adopted in 1992, last amended on 18 October 2022, <https://zakon.rada.gov.ua/laws/show/2232-12#Text>

### Article 17: Determent of conscription for regular military service

1. The determent of conscription for regular military service shall be granted to conscripts by a decision of a district (city) conscription commission in accordance with this Law for family reasons, health reasons, for obtaining education and continuation of professional activity.

*{Part one of Article 17 as amended by Laws [No. 1169-VII of 27.03.2014](#), [No. 116-VIII of 15.01.2015](#)}*

2. The determent of conscription for family reasons shall be granted to conscripts who have:

1) a disabled parent or a single disabled parent or disabled persons who provided custody, guardianship or maintenance of the conscript, or persons over whom the conscript exercises custody or guardianship, if they have no other able-bodied citizens of Ukraine who are obliged to support them in accordance with laws. The disability of these persons shall be determined in the manner stipulated by law;

2) underage siblings (full or half) or disabled siblings (full or half) regardless of their age, if they have no able-bodied persons other than the conscript who are obliged to support them in accordance with laws;

3) a child (children) under the age of 18 whom the conscripts bring up on their own;

*{Paragraph 3 of part two of Article 17 as amended by Law [No. 116-VIII of 15.01.2015](#); as amended by Law [No. 2169-IX of 01.04.2022](#)}*

4) a child under three years old;

*{Paragraph 4 of part two of Article 17 as amended by Law [No. 589-VII of 19.09.2013](#); as amended by Law [No. 2169-IX of 01.04.2022](#)}*

5) two or more children.

*{Paragraph 6 of part two of Article 17 has been deleted on the basis of Law [No. 2122-IX of 15.03.2022](#)}*

*{Paragraph 7 of part two of Article 17 has been deleted on the basis of Law [No. 2122-IX of 15.03.2022](#)}*

8) a pregnant wife.

3. A conscript who is an orphan or a child deprived of parental care may be granted a determent of conscription for family reasons at his own request.

*{Part three of Article 17 as amended by Law [No. 1634-VII of 12.08.2014](#)}*

*{Part four of Article 17 has been deleted on the basis of Law [No. 116-VIII of 15.01.2015](#)}*

5. In the event that several sons are subject to conscription for regular military service at the same time, the determent may be granted to one of them at their request, taking into account the proposal of the parents, for the period of regular military service of the brothers, until one of them is discharged to the reserve.

*{Part five of Article 17 as amended by Law [No. 116-VIII of 15.01.2015](#)}*

6. A district (city) conscription commission may decide to grant to a conscript a determent of conscription for family reasons, despite the unwillingness of the conscript to exercise such a right, based on the fact that his conscription may significantly worsen the financial situation of persons whom he is obliged to support in accordance with laws.

7. The determent of conscription to regular military service for health reasons for a period of up to one year shall be granted to conscripts who are recognized temporarily unfit for military service following a medical examination.

8. The determent of conscription for regular military service for the purpose of obtaining education for the entire period of study shall be granted to citizens of military age who are studying:

full-time in institutions of general secondary education of the 3<sup>rd</sup> degree and vocational (vocational-technical) education. As soon as such conscripts reach the age of 21, the determent shall become null and void;

*{Part eight of Article 17 has been supplemented with a new indent in accordance with Law [No. 2745-VIII of 06.06.2019](#); as amended by Law [No. 161-IX of 03.10.2019](#)}*

full-time in institutions of vocational higher education, including during the obtaining of the elementary level (short cycle) and the first (bachelor's) level of higher education under the curricula of the graduated education system;

*{Indent three of part eight of Article 17 as amended by Law [No. 161-IX of 03.10.2019](#)}*

full-time in institutions of professional pre-higher and/or higher education, including during the next level of education;

*{Indent four of part eight of Article 17 as amended by Law [No. 161-IX of 03.10.2019](#)}*

full-time in institutions of secondary or higher spiritual education;

*{Indent five of part eight of Article 17 as amended by Law [No. 161-IX of 03.10.2019](#)}*

under internship, postgraduate or doctoral programs, full-time or part-time.

The determent of conscription for regular military service shall also be granted to the citizens of Ukraine who undergo military training under the program for the training of reserve officers at higher military educational establishments and military training units of higher educational establishments. Such determent shall be granted for the entire period of military training and for the period lasting from the completion of such training to the assignment of the primary military rank of officer to a citizen of Ukraine, but not longer than until the end of the year in which the training was completed.

*{Part eight of Article 17 has been supplemented with paragraph seven in accordance with Law [No. 161-IX of 03.10.2019](#)}*

9. Citizens of Ukraine who are studying in foreign educational institutions under the international treaties of Ukraine shall also be entitled to a deterrent from conscription for the purpose of obtaining education.

*{Part ten of Article 17 has been deleted under the Law [No. 2145-VIII of 05.09.2017](#)}*

11. Citizens of military age who have interrupted their studies due to academic leave and exercise the right to academic mobility, as well as those who have been reinstated in a higher education institution, shall not be deprived of the right to enjoy a deterrent from conscription for regular military service.

*{Part eleven of Article 17 as amended by Law [No. 2145-VIII of 05.09.2017](#)}*

12. Where the conscripts studying full-time in higher or vocational higher education institutions are transferred to another higher or vocational higher education establishment with the above-mentioned form of education, they shall retain their right to a deterrent from conscription for regular military service.

*{Part twelve of Article 17 as amended by Laws [No. 116-VIII of 15.01.2015](#), [No. 2745-VIII of 06.06.2019](#)}*

13. The deterrent of the conscription for regular military service for the purpose of continuing professional activity shall be granted to the following citizens of military age:

pedagogical workers who have obtained higher education and whose main place of work is general secondary education institutions, subject to a full workload in the position – for the entire period of their work according to the major;

*{Indent two of part thirteen of Article 17 as amended by Law [No. 433-VIII of 14.05.2015](#); as amended by Law [No. 161-IX of 03.10.2019](#)}*

medical workers, subject to a full workload in the position – for the entire period of their work in the rural areas;

clergymen who have graduated from institutions of higher or secondary spiritual education and hold a position in religious organizations operating on the basis of the statute (regulations) registered in the prescribed manner – for the period of performance of a clergyman's duties;

*{Indent four of part eight of Article 17 as amended by Law [No. 161-IX of 03.10.2019](#)}*

village, town, city mayors – as long as they remain in office;

persons holding the degree of a Doctor of Philosophy (PhD)/Doctor of Arts or Doctor of Sciences and working in positions corresponding to their major in accordance with the group of specialties in the fields of knowledge (science)/arts, in which the scientific/educational/creative degree was awarded – for the entire period of their work in this major;

*{Indent six of part eight of Article 17 as amended by Law [No. 161-IX of 03.10.2019](#)}*

reservists – for the entire period of service in the military reserve;

police officers, privates and senior officers of the civil protection service and employees of the State Bureau of Investigation – for the entire period of their service;

*{Indent eight of part thirteen of Article 17 as amended by Laws [No. 580-VIII of 02.07.2015](#), [No. 989-IX of 05.11.2020](#); as amended by Law [No. 1357-IX of 30.03.2021](#)}*

employees of the Court Security Service – for the entire period of their service.

*{Part thirteen of Article 17 has been supplemented with indent nine in accordance with Law [No. 1417-IX of 27.04.2021](#)}*

*{Part thirteen of Article 17 as amended by Laws No. [4352-VI of 07.02.2012](#), [No. 1242-VII of 06.05.2014](#); as amended by Law [No. 116-VIII of 15.01.2015](#)}*

14. The determent of the conscription for regular military service shall be granted to conscripts who have been served a notice of suspicion of committing a criminal offence or in respect of whom a criminal case is pending in a court – until a relevant judgment is made.

*{Part fourteen of Article 17 as amended by the Law [No. 4652-VI of 13.04.2012](#)}*

15. In cases not stipulated hereby the determent of conscription for regular military service may be granted to conscripts in accordance with decisions of the Conscription Commission of the Autonomous Republic of Crimea, regional and Kyiv city conscription commissions upon the submission of district (city) conscription commissions.

16. Conscripts who have been granted a determent from conscription for regular military service shall present documents confirming their right to a determent to the relevant district (city) territorial centers of recruitment and social support annually by October 1.

17. Conscripts who have lost the grounds for determent from regular military service, as well as persons who have no right to determent or grounds for exemption from regular military service envisaged in Articles 17 and [18](#) hereof and are not called up for various reasons for regular military service within the established time limits, must be called up during the regular conscription.

#### **Article 18.** Exemption from conscription for regular military service

1. Citizens of Ukraine all be exempt from conscription for regular military service in peacetime as long as they:

are recognized as persons with disabilities or unfit for military service in peacetime for health reasons;

*{Indent two of part one of Article 18 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

have reached the age of 27 by the day of referral for military service;

*{Indent three of part one of Article 18 as amended by Law [No. 116-VIII of 15.01.2015](#)}*

have fulfilled the duties of service in the military reserve during the terms of the first and second contracts;

*{Part one of Article 18 has been supplemented with a new indent in accordance with Law No. [1169-VII of 27.03.2014](#); as amended by Law [No. 1275-VII of 20.05.2014](#)}*

have a parent or sibling (full or half) who was killed, died or became disabled during military service or training. Conscripts who are entitled to exemption from conscription on this basis may waive this right;

are raising a child with a disability under the age of 18;

*{Part one of Article 18 has been supplemented with a new indent in accordance with Law [No. 2122-IX of 15.03.2022](#)}*

are raising a child with severe perinatal lesions of the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of the 4<sup>th</sup> grade, a child who has received a serious injury, in need of organ transplantation, in need of palliative care, as evidenced by a document issued by the medical advisory commission of the health care institution in the manner and form established by the central executive body ensuring the development and implementation of the state healthcare policy, but which has not been recognized as disabled;

*{Part one of Article 18 has been supplemented with a new indent in accordance with Law [No. 2122-IX of 15.03.2022](#)}*

ensure a continuous care for a sick spouse, child, as well as their parents or spouse's parents, who, according to the conclusion of the medical and social expert commission or medical advisory commission of the healthcare institution, need continuous care;

*{Part one of Article 18 has been supplemented with a new indent in accordance with Law [No. 2122-IX of 15.03.2022](#)}*

have a spouse recognized as disabled and/or one of their parents or their spouse's parents are recognized as disabled and are assigned disability group I or II;

*{Part one of Article 18 has been supplemented with a new indent in accordance with Law [No. 2122-IX of 15.03.2022](#)}*

take care for a disabled person recognized by the court as incapacitated; ensure a continuous care for a person assigned disability group I; ensure a continuous care for a person assigned disability group II or for a person who, according to the conclusion of the medical and social expert commission or the medical advisory commission of the healthcare institution, needs permanent care, in the absence of the other persons who can provide such care;

*{Part one of Article 18 has been supplemented with a new indent in accordance with Law [No. 2122-IX of 15.03.2022](#)}*

served in other countries before acquiring Ukrainian citizenship;

were sentenced to imprisonment, restriction of liberty, including subject to release from serving a sentence for committing a criminal offense;

*{Indent of part one of Article 18 as amended by Laws [No. 116-VIII of 15.01.2015](#), [No. 720-IX of 17.06.2020](#)}*

were awarded military (special) ranks of officers (commanders) after graduation from higher education institutions.

**Article 18<sup>1</sup>.** Peculiarities of conscription for regular military service and activities of conscription commissions during martial law

1. During martial law, conscription for regular military service shall not be carried out.
2. During martial law, conscription commissions shall be formed to consider the issues concerning:



organizing and conducting medical examinations of persons listed in the military registries of conscripts and have reached the age of 27, registering them for military service or excluding them from military registries;

sending conscripts who have declared their willingness to enter higher military educational institutions or military educational subdivisions of higher educational institutions to take tests and admission exams or making a decision to refuse to grant such a referral.

*{The Law has been supplemented with Article 18<sup>1</sup> according to the Law [No. 2678-IX of 18.10.2022](#)}*

...

#### **Article 22.** Age limit for military service

1. The age limit for military service shall be established as follows:

1) for servicemen of the rank of private, junior sergeant and sergeant major, who serve under the contract – 45 years old;

2) for servicemen of senior non-commissioned officers and sergeants major who serve under the contract – 50 years old;

3) for servicemen of top non-commissioned officers and sergeants performing military service under the contract – 55 years old;

4) for junior officers – 45 years old;

5) for senior officers: majors (captains of the 3<sup>rd</sup> rank), lieutenant colonels (captains of the 2<sup>nd</sup> rank) – 50 years old; colonels (captains of the 1<sup>st</sup> rank) – 55 years old;

6) for senior officers – 60 years old;

7) for military personnel serving during a special period, from among:

privates, sergeants and non-commissioned officers, junior and senior officers – 60 years old;

senior officers – 65 years old.

*{Part one of Article 22 as amended by Law [No. 1275-VII of 20.05.2014](#); as amended by Law No. [205-IX of 17.10.2019](#), as amended by Law [No. 680-IX of 04.06.2020](#)}*

2. Servicemen of the Armed Forces of Ukraine and other military formations who have received advanced professional training, experience of practical work at the position held and are recognized by the military medical commission as fit for military service for health reasons may, at their request, be left in military service beyond the limit of the age for military service established by [part one](#) of this Article for a period of up to 5 years in accordance with the procedure established by the regulations on the military service by citizens of Ukraine.

*{Part two of Article 22 as amended by Law [No. 1014-V of 11.05.2007](#)}*

...

#### **Article 26.** Dismissal from military service

1. Dismissal of servicemen from military service shall be carried out as follows:

a) to the reserve, if servicemen have not reached the age limit for being in the reserve and are fit for military service for health reasons;

b) by way of retirement, if servicemen have reached the age limit for being in the reserve and doing the military reserve or are recognized by military medical commissions as unfit for military service for health reasons subject to their exclusion from the military registries.

2. Servicemen of regular military service shall be dismissed on the following grounds:

a) in connection with the expiration of the established duration of military service – within the terms determined by the Decree of the President of Ukraine;

b) for health reasons – on the basis of the opinion (resolution) of the military medical commission on unfitness for military service;

c) for family reasons – where they are eligible for a deterrent or discharge due to changes in family circumstances. Servicemen eligible for a discharge from service on this ground may waive such a right;

d) in connection with the entry into force of a court verdict of guilty, which imposed a sentence of imprisonment.

3. Servicemen carrying out military service on the basis of conscription of officers shall be discharged from service on the following grounds:

a) in connection with the expiration of the established duration of military service;

b) for health reasons – on the basis of the opinion (resolution) of the military medical commission on unfitness or limited fitness for military service;

c) due to family circumstances or for the other valid reasons, the list of which shall be determined by the Cabinet of Ministers of Ukraine;

d) in connection with the entry into force of a court verdict of guilty, which sentenced the serviceman to imprisonment, restriction of liberty, or deprivation of military rank;

e) in connection with disciplinary deprivation of military rank;

f) in connection with the onset of a special period and unwillingness to continue military service by a servicewoman who has a child (children) under the age of 18;

g) in connection with the termination of Ukrainian citizenship.

4. Servicemen who are doing military service on call during mobilization, during a special period, or on call of reservists during a special period shall be discharged from military service on the following grounds:

*{Paragraph one of part four of Article 26 as amended by Law [No. 1357-IX of 30.03.2021](#)}*

1) during a special period (except for the period of martial law):

a) within the time limits determined by the Decree of the President of Ukraine (within the time limits determined by the decision of the Supreme Commander-in-Chief of the Armed Forces of Ukraine – for servicemen who are doing the military service on call of reservists during a special period);

*{Subparagraph "a" of paragraph 1 of part four of Article 26 as amended by Law [No. 1357-IX of 30.03.2021](#)}*

b) for health reasons – on the basis of the opinion (resolution) of the military medical commission on unfitness for military service in peacetime or limited fitness in wartime, except in cases determined by the provisions on the military service by citizens of Ukraine;

c) for age-related reasons – when the serviceman reached the age limit for military service;

d) due to the following family circumstances or other valid reasons (unless servicemen declared their willingness to continue military service):

a servicewoman has a child (children) under the age of 18;

upbringing of a child or several children under the age of 18 by a single mother (father) who is a servicewoman (serviceman), where the child(ren) live(s) with her (him);

maintenance of a child of full legal age assigned disability group I or II by a serviceman;

*{Indent four of subparagraph "d" of paragraph 1 of part four of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

the need for constant care for a sick spouse, child, or the serviceman's or his/her spouse's parents who, according to the conclusion of the medical and social expert commission or medical advisory commission of the healthcare institution, need constant care;

*{Indent five of subparagraph "d" of paragraph 1 of part four of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

availability of a disabled spouse and/or one of the serviceman's or his/her spouse's parents assigned disability group I or II;

*{Indent six of subparagraph "d" of paragraph 1 of part four of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

the need for continuous care for a disabled person recognized by the court as incapacitated; ensure a continuous care for a person assigned disability group I; ensure a continuous care for a person assigned disability group II or for a person who, according to the conclusion of the medical and social expert commission or the medical advisory commission of the healthcare institution, needs permanent care, in the absence of the other persons who can provide such care;

*{Indent seven of subparagraph "d" of paragraph 1 of part four of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

a serviceman has three or more children under the age of 18;

*{Indent eight of subparagraph "d" of paragraph 1 of part four of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

a serviceman brings up a disabled child under the age of 18;

*{Indent of subparagraph "d" of paragraph 1 of part four of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

a serviceman brings up a child suffering from severe perinatal lesions of the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases,

cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney diseases of the 4<sup>th</sup> grade, a child who has received a severe trauma, in need of organ transplantation, in need of palliative care, which is confirmed by a document issued by the medical advisory commission of the healthcare institution in the manner and form established by the central executive body that ensures the development and implementation of state healthcare policy, but which has not been recognized disabled;

*{Indent of subparagraph "d" of paragraph 1 of part four of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

e) due to official incompatibility;

f) in connection with the entry into force of a court verdict of guilty, which sentenced the serviceman to imprisonment, restriction of liberty, or deprivation of military rank;

g) in connection with deprivation of military rank by way of disciplinary punishment;

2) during martial law:

a) for age-related reasons – when the serviceman reached the age limit for military service;

b) for health reasons – on the basis of the conclusion (resolution) of the military medical commission on unfitness for military service subject to the exclusion from the military registries;

c) in connection with the entry into force of a court verdict of guilty, which sentenced the serviceman to imprisonment, restriction of liberty, or deprivation of military rank;

d) due to the following family circumstances or other valid reasons (unless servicemen declared their willingness to continue military service):

a) a serviceman brings up a disabled child under the age of 18;

a) a serviceman brings up a child suffering from severe perinatal lesions of the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney diseases of the 4<sup>th</sup> grade, a child who has received a severe trauma, in need of organ transplantation, in need of palliative care, which is confirmed by a document issued by the medical advisory commission of the healthcare institution in the manner and form established by the central executive body that ensures the development and implementation of state healthcare policy, but which has not been recognized disabled;

b) in connection with the need for constant care for a sick spouse, child, or the serviceman's or his/her spouse's parents who, according to the conclusion of the medical and social expert commission or medical advisory commission of the healthcare institution, need constant care;

c) availability of a disabled spouse and/or one of the serviceman's or his/her spouse's parents assigned disability group I or II;

d) in connection with the need for continuous care for a disabled person recognized by the court as incapacitated;

e) due to the need for continuous care for a person assigned disability group I;

f) in connection with the need for continuous care for a person assigned disability group II or for a person who, according to the conclusion of the medical and social expert commission or the medical

advisory commission of the health care institution, needs continuous care, in the absence of other persons who can provide such care;

for servicewomen – due to pregnancy;

servicewomen who are on maternity leave until the child becomes three years old, as well as if the child needs home care for the duration specified in a medical report, but not more than until the child becomes six years old;

one of the spouses, both of whom are on military service and have a child (children) under the age of 18;

single servicemen who raise a child (children) under 18 years old;

three or more children under the age of 18 are dependent on the serviceman.

*{Subparagraph "d" of paragraph 2 of part four of Article 26 has been supplemented with a new indent in accordance with Law [No. 2599-IX of 20.09.2022](#)}*

*{Paragraph 2 of part four of Article 26 has been supplemented with subparagraph "d" in accordance with Law [No. 2122-IX of 15.03.2022](#); wording of Law [No. 2169-IX of 01.04.2022](#)}*

5. The contract shall be terminated and servicemen doing military service under a contract shall be dismissed on the following grounds:

1) in peacetime:

a) in connection with the expiration of the contract;

b) for health reasons – on the basis of the opinion (resolution) of the military medical commission on unfitness for military service or limited fitness for military service, except in cases determined by the provisions on the military service by citizens of Ukraine;

c) for age-related reasons – when the serviceman reached the age limit for military service;

d) in connection with staff reduction or organizational measures – where they cannot be employed at service;

e) due to family circumstances or for the other valid reasons, the list of which shall be determined by the Cabinet of Ministers of Ukraine;

f) due to official incompatibility;

g) in connection with the entry into force of a court verdict of guilty, which sentenced the serviceman to imprisonment, restriction of liberty, deprivation of military rank, or deprivation of the right to hold certain positions;

h) in connection with the deprivation of military rank by way of disciplinary punishment;

i) in connection with repeated violation of the terms of the contract by the command (at the request of the serviceman);

j) in connection with repeated violation of the terms of the contract by the serviceman;

k) in connection with the entry into force of a court decision which brought a serviceman to administrative responsibility for committing an administrative offence and imposed a penalty in the

form of deprivation of the right to hold certain positions or engage in certain activities related to the performance of the functions of the state or local self-government;

l) where a serviceman cannot be transferred to another position in the case of direct subordination to a close relative;

m) when a special inspection reveals information proving that the serviceman does not meet the requirements for holding a position as established by law;

n) in connection with the application of a ban provided for in parts [three](#) or [four](#) of Article 1 of the Law of Ukraine on Government Lustration;

o) in connection with the expiration of a special period or the announcement of demobilization and the unwillingness to continue military service under a new contract; this shall apply to the servicemen who have done military service under a contract concluded under the conditions envisaged in [indent two](#) of part three of Article 23 of this Law;

p) in connection with the termination of Ukrainian citizenship;

q) failure to pass the probationary period established by [part one](#) of Article 21<sup>2</sup> of this Law;

r) in connection with the entry into force of a court decision on the recognition of the assets of a serviceman or assets acquired on his/her behalf by other persons or in other cases provided for in [Article 290](#) of the Civil Procedure Code of Ukraine as unjustified and their seizure by the state;

*{Paragraph 1 of part five of Article 26 has been supplemented with subparagraph "r" in accordance with Law [No. 263-IX of 31.10.2019](#)}*

s) in connection with the withdrawal of the mandate to carry out military chaplaincy activities;

*{Paragraph 1 of part five of Article 26 has been supplemented with subparagraph "s" in accordance with Law [No. 1915-IX of 30.11.2021](#)}*

2) during a special period (except for the periods since the mobilization announcement – during the period of its implementation, which shall be determined by the decision of the President of Ukraine, and since the martial law introduction – until the announcement of demobilization):

a) in connection with the expiration of the contract;

b) for health reasons – on the basis of the opinion (resolution) of the military medical commission on unfitness for military service or limited fitness for military service, except in cases determined by the provisions on the military service by citizens of Ukraine;

c) for age-related reasons – when the serviceman reached the age limit for military service;

d) in connection with staff reduction or organizational measures – where they cannot be employed at service;

e) due to the following family circumstances or other valid reasons (unless servicemen declared their willingness to continue military service):

a servicewoman has a child (children) under the age of 18;

upbringing of a child or several children under the age of 18 by a single mother (father) who is a servicewoman (serviceman), where the child(ren) live(s) with her (him);

maintenance of a child of full legal age assigned disability group I or II by a serviceman;



*{Indent four of subparagraph "e" of paragraph 2 of part five of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

the need for constant care for a sick spouse, child, or the serviceman's or his/her spouse's parents who, according to the conclusion of the medical and social expert commission or medical advisory commission of the healthcare institution, need constant care;

*{Indent five of subparagraph "e" of paragraph 2 of part five of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

availability of a disabled spouse and/or one the serviceman's or his/her spouse's parents assigned disability group I or II;

*{Indent six of subparagraph "e" of paragraph 2 of part five of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

the need for continuous care for a disabled person recognized by the court as incapacitated; ensure a continuous care for a person assigned disability group I; ensure a continuous care for a person assigned disability group II or for a person who, according to the conclusion of the medical and social expert commission or the medical advisory commission of the healthcare institution, needs permanent care, in the absence of the other persons who can provide such care;

*{Indent seven of subparagraph "e" of paragraph 2 of part five of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

a serviceman has three or more children under the age of 18;

*{Indent eight of subparagraph "e" of paragraph 2 of part five of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

a serviceman brings up a disabled child under the age of 18;

*{Indent of subparagraph "e" of paragraph 2 of part five of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

a serviceman brings up a child suffering from severe perinatal lesions of the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney diseases of the 4<sup>th</sup> grade, a child who has received a severe trauma, in need of organ transplantation, in need of palliative care, which is confirmed by a document issued by the medical advisory commission of the healthcare institution in the manner and form established by the central executive body that ensures the development and implementation of state healthcare policy, but which has not been recognized disabled;

*{Indent of subparagraph "e" of paragraph 2 of part five of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

for female servicewomen – due to pregnancy;

*{Subparagraph "f" of paragraph 2 of part five of Article 26 has been supplemented with paragraph eleven in accordance with Law [No. 2169-IX of 01.04.2022](#)}*

f) due to official incompatibility;



g) in connection with the entry into force of a court verdict of guilty, which sentenced the serviceman to imprisonment, restriction of liberty, or deprivation of military rank;

h) in connection with deprivation of military rank by way of disciplinary punishment;

i) in connection with repeated violation of the terms of the contract by the serviceman;

j) in connection with the entry into force of a court decision which brought a serviceman to administrative responsibility for committing an administrative offence and imposed a penalty in the form of deprivation of the right to hold certain positions or engage in certain activities related to the performance of the functions of the state or local self-government;

k) where a serviceman cannot be transferred to another position in the case of direct subordination to a close relative;

l) in connection with the application of a ban provided for in parts [three](#) or [four](#) of Article 1 of the Law of Ukraine on Government Lustration;

m) failure to pass the probationary period established by [part one](#) of Article 21<sup>2</sup> of this Law;

n) who have concluded a contract for the period until the end of the special period or until the announcement of the decision on demobilization and have served at least 24 months of military service under the contract, if they have not expressed a desire to continue military service during the special period.

The servicemen who have acquired the right to be dismissed from service on this basis (at the request of servicemen) shall be dismissed within the time limits determined by the central executive authorities which, in accordance with the law, manage military formations, but in any case within three months from the date of acquisition of such a right, and those who, at the time of acquisition of the right to be dismissed from service, perform tasks in the interests of the defense of Ukraine during the special period, take direct part in the conduct of military (combat) operations, including in the territory of the anti-terrorist operation, as well as in the areas of national security and defense, repulsion and deterrence of armed aggression of the state that is formally or actually participating in hostilities against Ukraine – within three months from the date of completion of such tasks;

o) who are doing military service under a contract extended beyond the established terms until the expiration of the special period or until the announcement of demobilization, and who have served at least 18 months from the date of the contract extension, unless they have declared their willingness to continue military service during the special period.

The servicemen who have acquired the right to be discharged from service on this ground (at the request of servicemen) shall be discharged within the terms specified in the [second indent](#) of subparagraph "m" of this paragraph of this part;

p) in connection with the entry into force of a court decision on the recognition of the assets of a serviceman or assets acquired on his/her behalf by other persons or in other cases provided for in [Article 290](#) of the Civil Procedure Code of Ukraine as unjustified and their seizure by the state;

*{Paragraph 2 of part five of Article 26 has been supplemented with subparagraph "p" in accordance with Law [No. 263-IX of 31.10.2019](#)}*

q) in connection with the withdrawal of the mandate to carry out military chaplaincy activities;

*{Paragraph 1 of part five of Article 26 has been supplemented with subparagraph "q" in accordance with Law [No. 1915-IX of 30.11.2021](#)}*

3) since the mobilization announcement – during the period of its implementation, which shall be determined by the decision of the President of Ukraine, and since the martial law introduction – until the announcement of demobilization:

a) for age-related reasons – when the serviceman reached the age limit for military service;

b) for health reasons – on the basis of the conclusion (resolution) of the military medical commission on unfitness for military service subject to the exclusion from the military registries;

c) in connection with the entry into force of a court verdict of guilty, which sentenced the serviceman to imprisonment, restriction of liberty, or deprivation of military rank;

d) due to the following family circumstances or other valid reasons (unless servicemen declared their willingness to continue military service):

a serviceman brings up a disabled child under the age of 18;

a serviceman brings up a child suffering from severe perinatal lesions of the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney diseases of the 4<sup>th</sup> grade, a child who has received a severe trauma, in need of organ transplantation, in need of palliative care, which is confirmed by a document issued by the medical advisory commission of the healthcare institution in the manner and form established by the central executive body that ensures the development and implementation of state healthcare policy, but which has not been recognized disabled;

in connection with the need for constant care for a sick spouse, child, or the serviceman's or his/her spouse's parents who, according to the conclusion of the medical and social expert commission or medical advisory commission of the healthcare institution, need constant care;

in connection with the need for continuous care for a disabled person recognized by the court as incapacitated;

due to the need for permanent care for a person with a disability of group I;

due to the need for continuous care for a person assigned disability group I;

in connection with the need for continuous care for a person assigned disability group II or for a person who, according to the conclusion of the medical and social expert commission or the medical advisory commission of the health care institution, needs continuous care, in the absence of other persons who can provide such care;

for servicewomen – due to pregnancy;

servicewomen who are on maternity leave until the child becomes three years old, as well as if the child needs home care for the duration specified in a medical report, but not more than until the child becomes six years old;

one of the spouses, both of whom are on military service and have a child (children) under the age of 18;

single servicemen who raise a child (children) under 18 years old;

*{Paragraph 3 of part five of Article 26 has been supplemented with subparagraph "d" in accordance with Law [No. 2169-IX of 01.04.2022](#)}*

e) at their sole discretion (for servicemen from among foreigners and stateless persons who serve in the Armed Forces of Ukraine under a contract).

*{Paragraph 3 of part five of Article 26 has been supplemented with subparagraph "e" in accordance with Law [No. 2197-IX of 14.04.2022](#)}*

6. Servicemen doing regular military service shall be dismissed on the following grounds:

1) in peacetime:

a) at their sole discretion;

b) for health reasons – on the basis of the opinion (resolution) of the military medical commission on unfitness or limited fitness for military service;

c) for age-related reasons – when the serviceman reached the age limit for military service;

d) in connection with staff reduction or organizational measures – where they cannot be employed at service;

e) due to family circumstances or for the other valid reasons, the list of which shall be determined by the Cabinet of Ministers of Ukraine;

f) due to official incompatibility;

g) in connection with the entry into force of a court verdict of guilty, which sentenced the serviceman to imprisonment, restriction of liberty, deprivation of military rank, or deprivation of the right to hold certain positions;

h) in connection with the deprivation of military rank by way of disciplinary punishment;

i) in connection with the entry into force of a court decision which brought a serviceman to administrative responsibility for committing an administrative offence and imposed a penalty in the form of deprivation of the right to hold certain positions or engage in certain activities related to the performance of the functions of the state or local self-government;

j) where a serviceman cannot be transferred to another position in the case of direct subordination to a close relative;

k) in connection with the application of a ban provided for in parts [three](#) or [four](#) of Article 1 of the Law of Ukraine on Government Lustration;

l) in connection with the termination of Ukrainian citizenship;

m) in connection with the entry into force of a court decision on the recognition of the assets of a serviceman or assets acquired on his/her behalf by other persons or in other cases provided for in [Article 290](#) of the Civil Procedure Code of Ukraine as unjustified and their seizure by the state;

*{Paragraph 1 of part six of Article 26 has been supplemented with subparagraph "m" in accordance with Law [No. 263-IX of 31.10.2019](#)}*

2) during a special period (except for the periods since the mobilization announcement – during the period of its implementation, which shall be determined by the decision of the President of Ukraine, and since the martial law introduction – until the announcement of demobilization):

a) for health reasons – on the basis of the opinion (resolution) of the military medical commission on unfitness for military service or limited fitness for military service;

b) for age-related reasons – when the serviceman reached the age limit for military service;

c) in connection with staff reduction or organizational measures – where they cannot be employed at service;

d) due to the following family circumstances or other valid reasons (unless servicemen declared their willingness to continue military service):

a servicewoman has a child (children) under the age of 18;

upbringing of a child or several children under the age of 18 by a single mother (father) who is a servicewoman (serviceman), where the child(ren) live(s) with her (him);

maintenance of a child of full legal age assigned disability group I or II by a serviceman;

*{Indent four of subparagraph "d" of paragraph 2 of part six of Article 26 as amended by Law No. 2122-IX of 15.03.2022}*

the need for constant care for a sick spouse, child, or the serviceman's or his/her spouse's parents who, according to the conclusion of the medical and social expert commission or medical advisory commission of the healthcare institution, need constant care;

*{Indent five of subparagraph "d" of paragraph 2 of part six of Article 26 as amended by Law No. 2122-IX of 15.03.2022}*

availability of a disabled spouse and/or one of the serviceman's or his/her spouse's parents assigned disability group I or II;

*{Indent six of subparagraph "d" of paragraph 2 of part six of Article 26 as amended by Law No. 2122-IX of 15.03.2022}*

the need for continuous care for a disabled person recognized by the court as incapacitated; the need for continuous care for a person assigned disability group I; the need for continuous care for a person assigned disability group II or for a person who, according to the conclusion of the medical and social expert commission or the medical advisory commission of the health care institution, needs continuous care, in the absence of other persons who can provide such care;

*{Indent seven of subparagraph "d" of paragraph 2 of part six of Article 26 as amended by Law No. 2122-IX of 15.03.2022}*

a serviceman has three or more children under the age of 18;

*{Indent eight of subparagraph "d" of paragraph 2 of part six of Article 26 as amended by Law No. 2122-IX of 15.03.2022}*

a serviceman brings up a disabled child under the age of 18;

*{Indent of subparagraph "d" of paragraph 2 of part six of Article 26 as amended by Law No. 2122-IX of 15.03.2022}*

a serviceman brings up a child suffering from severe perinatal lesions of the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney diseases of the 4<sup>th</sup> grade, a child who has received a severe trauma, in need of organ transplantation, in need of palliative care, which is confirmed by a document issued by the medical advisory commission of the healthcare institution in the manner and form established by the central

executive body that ensures the development and implementation of state healthcare policy, but which has not been recognized disabled;

*{Indent of subparagraph "d" of paragraph 2 of part six of Article 26 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

a servicewomen – due to pregnancy;

*{Subparagraph "d" of paragraph 2 of part six of Article 26 has been supplemented with indent eleven in accordance with Law [No. 2169-IX of 01.04.2022](#)}*

one of the spouses, both of whom are on military service and have a child (children) under the age of 18;

*{Subparagraph "d" of paragraph 2 of part six of Article 26 has been supplemented with indent twelve in accordance with Law [No. 2169-IX of 01.04.2022](#)}*

e) due to official incompatibility;

f) in connection with the entry into force of a court verdict of guilty, which sentenced the serviceman to imprisonment, restriction of liberty, deprivation of military rank, or deprivation of the right to hold certain positions;

g) in connection with deprivation of military rank by way of disciplinary punishment;

h) in connection with the entry into force of a court decision which brought a serviceman to administrative responsibility for committing an administrative offence and imposed a penalty in the form of deprivation of the right to hold certain positions or engage in certain activities related to the performance of the functions of the state or local self-government;

i) where a serviceman cannot be transferred to another position in the case of direct subordination to a close relative;

j) in connection with the application of a ban provided for in parts [three](#) or [four](#) of Article 1 of the Law of Ukraine on Government Lustration;

k) connection with the entry into force of a court decision on the recognition of the assets of a serviceman or assets acquired on his/her behalf by other persons or in other cases provided for in [Article 290](#) of the Civil Procedure Code of Ukraine as unjustified and their seizure by the state;

*{Paragraph 2 of part six of Article 26 has been supplemented with indent "k" in accordance with Law [No. 263-IX of 31.10.2019](#)}*

3) since the mobilization announcement – during the period of its implementation, which shall be determined by the decision of the President of Ukraine, and since the martial law introduction – until the announcement of demobilization:

a) for age-related reasons – when the serviceman reached the age limit for military service;

b) for health reasons – on the basis of the conclusion (resolution) of the military medical commission on unfitness for military service subject to the exclusion from the military registries;

c) in connection with the entry into force of a court verdict sentencing to imprisonment or restriction of liberty.

Note. The terms "[direct subordination](#)" and "[close relative](#)" shall have the meaning assigned to them in the Law of Ukraine on Corruption Prevention.

7. The servicemen shall be dismissed in the manner provided for by the regulations on the military service by citizens of Ukraine.

8. When required, servicemen at regular military service and conscripts who have served the established terms may, in accordance with the Decree of the President of Ukraine, be kept at service for up to six months.

9. Servicemen discharged from regular military service to the reserve or retired shall be provided with appropriate uniforms according to the list established by the Ministry of Defense of Ukraine, travel documents to the place of residence, meals during the period of traveling, and financial allowance in the amount established by the Cabinet of Ministers of Ukraine. Servicemen at regular military service may be discharged to the reserve in their own civilian clothes at their request.

10. Servicemen who have acquired the right to a pension for length of service, as well as those who are war veterans or participants in the liquidation of the consequences of the Chornobyl accident and who have five years or less left until the reaching of the established age limit for military service, may be discharged from military service at their request on the grounds envisaged in subparagraphs "c" of paragraphs 1 of [parts five](#) and [six](#) of this Article.

11. Persons discharged from military service shall arrive at the relevant regional (city) territorial centers of recruitment and social support (for persons liable for military service of the Security Service of Ukraine – to the Central Department or regional bodies of the Security Service of Ukraine, and for persons liable for military service of the Foreign Intelligence Service of Ukraine – to the relevant unit of the Foreign Intelligence Service of Ukraine) for military registration within five days.

*{Part eleven of Article 26 as amended by Law [No. 161-IX of 03.10.2019](#)}*

*{Article 26 as amended by Law [No. 2397-VIII of 05.04.2018](#)}*

## **Chapter V**

### **SERVICE IN THE MILITARY RESERVE. PERFORMANCE OF THE MILITARY DUTY IN THE RESERVE**

*{Title of Chapter V as amended by Law [No. 1127-VII of 17.03.2014](#)}*

**Article 26<sup>1</sup>.** Service in the military reserve

1. Citizens of Ukraine (except for those who are not subject to conscription for military service during mobilization) can be voluntarily enrolled in the military reserve of the Armed Forces of Ukraine and other military formations. To do this, they must pass a professional and psychological selection, be fit for service in the military reserve, and meet the established requirements for service in the military reserve.

For the needs of manning the Armed Forces of Ukraine and other military formations, citizens of Ukraine who have not reached the age limit for military service and are recognized by military medical commissions as unfit for military service for health conditions as a result of diseases, wounds (traumas, contusions, mutilations) received during the performance of military service duties, including during participation in the anti-terrorist operation and/or in the implementation of actions to ensure national security and defense, repulsing and deterring the armed aggression of the Russian



Federation in Donetsk and Luhansk regions, international peacekeeping and security operations, which resulted in their disability, partial disability without disability (except for mental, sensory, psychological disabilities, mental disorders, behavioral disorders and other diseases determined by the Ministry of Defense of Ukraine and other central executive authorities, which, in accordance with the law, manage military formations) may be recruited for service in the military reserve of the Armed Forces of Ukraine and other military formations.

*{Part one of Article 26<sup>1</sup> has been supplemented with indent two in accordance with Law [No. 2024-IX of 27.01.2022](#)}*

The list of positions that can be held by such persons shall be determined by the Ministry of Defense of Ukraine and other central executive authorities, which, in accordance with the law, manage military formations.

*{Part one of Article 26<sup>1</sup> has been supplemented with indent three in accordance with Law [No. 2024-IX of 27.01.2022](#)}*

2. A contract for service in the military reserve of the Armed Forces of Ukraine or other military formations shall be concluded with a person who meets the requirements specified in [part one](#) of this Article.

3. Reservists who serve in the military reserve, in the case of expiry of their contract, may conclude a new contract for service in the military reserve.

4. The peculiarities of service in the military reserve, including the performance of duties in the military reserve by reservists, shall be determined by this Law and relevant regulations on the performance of service in the military reserve by the citizens of Ukraine.

5. Reservists shall not be classified as the employed population in Ukraine and shall be entitled, in accordance with laws on employment of the population, to be recognized as unemployed and registered with the state employment service as job seekers who are ready and able to proceed with suitable work.

6. Service in the military reserve shall be introduced with the aim of regular training of reservists for manning the Armed Forces of Ukraine and other military formations in peacetime and during a special period by acquiring and maintaining at the proper level skills and abilities in the military specialty.

*{Part six of Article 26<sup>1</sup> as amended by Law [No. 1357-IX of 30.03.2021](#)}*

7. The training programs for the reservists of the Armed Forces of Ukraine, the procedure and scope of training in the military specialties, time and terms of training shall be determined by the General Staff of the Armed Forces of Ukraine, and in other military formations – by their commanders in agreement with the General Staff of the Armed Forces of Ukraine.

8. Financial and material support for actions related to the performance of service in the military reserve shall be paid from the funds envisaged in the State Budget of Ukraine for the maintenance of the Ministry of Defense of Ukraine and other central executive authorities which, in accordance with the law, manage military formations. The [procedure and the amounts of financial support](#) and incentives for persons liable for military service and reservists shall be determined by the Cabinet of Ministers of Ukraine, the Ministry of Defense of Ukraine and other central executive authorities which, in accordance with the law, manage military formations.



*{Chapter V has been supplemented with Article 26<sup>1</sup> according to the Law [No. 1127-VII of 17.03.2014](#)}*

**Article 26<sup>2</sup>.** Service in the military reserve during a special period

1. During a special period, persons discharged from military service who are fit for service in the military operational reserve in view of their professional and psychological characteristics and state of health, and who meet the established requirements for service in the military reserve shall be enrolled in the military reserve.

*{Part one of Article 26<sup>2</sup> as amended by Law [No. 1769-VIII of 06.12.2016](#)}*

2. The contract on the service of a citizen of Ukraine in the military reserve of the Armed Forces of Ukraine or other military formations cannot be terminated during a special period, and a citizen who has concluded the same and has been enrolled in the military operational reserve shall continue to serve in the military reserve of the Armed Forces of Ukraine or other military formations on the terms and conditions stipulated by laws until the expiry of the special period.

3. After the expiry of the special period, citizens who have served in the military operational reserve shall be entitled to conclude a voluntary contract for service in the military reserve on the terms and conditions established by this Law.

*{Part three of Article 26<sup>2</sup> as amended by Law [No. 1357-IX of 30.03.2021](#)}*

*{The Law has been supplemented with Article 26<sup>2</sup> according to the Law No. [265-VIII of 19.03.2015](#); as amended by the Law [No. 1702-IX of 16.07.2021](#) – effective since 01.01.2022}*

...

## **Chapter VII**

### **CONSCRIPTION DURING MOBILIZATION. DEMOBILIZATION. CONSCRIPTION OF RESERVISTS FOR MILITARY SERVICE DURING A SPECIAL PERIOD**

*{Title of Chapter VII as amended by Law [No. 1357-IX of 30.03.2021](#)}*

**Article 39.** Conscription for military service during mobilization. Demobilization

1. The conscription of reservists and persons liable for military service during mobilization shall be carried out in accordance with the procedure determined by this Law and the [Law of Ukraine](#) on Mobilization Training and Mobilization.

Reservists and persons liable for military service who are in reserve and not booked during the period of mobilization according to the established procedure shall be called up for military service during mobilization.

The conscription of reservists and persons liable for military service during mobilization shall be carried out to fill military positions provided for by the wartime manning tables within the terms specified in the mobilization plans of the Armed Forces of Ukraine and other military formations.

Persons discharged from military service in connection with the application of a ban provided for in parts [three](#) or [four](#) of Article 1 of the Law of Ukraine on the Government Lustration may be called up for military service during mobilization. Such persons called up for military service during

mobilization shall be appointed to any military positions, except for the positions in respect of which the lustration measures are carried out.

During a special period, the military service (term of contracts) for servicemen shall be extended in accordance with the procedure stipulated in [part nine](#) of Article 23 of this Law.

In the event of the demobilization announcement, the servicemen doing military service under conscription during mobilization for a special period shall be dismissed in accordance with [part four](#) of Article 26 of this Law.

*{Part one of Article 39 as amended by Law [No. 1127-VII of 17.03.2014](#); as amended by Laws [No. 1634-VII of 12.08.2014](#), [No. 2397-VIII of 05.04.2018](#)}*

*{Part two of Article 39 has been deleted in accordance with Law [No. 2926-VI of 13.01.2011](#)}*

2. Citizens of Ukraine who are called up for regular military service, military service by conscription during mobilization, during a special period, or enlisted for military service under a contract in the event of a crisis situation threatening the national security, the announcement of a decision to carry out mobilization and (or) the introduction of martial law, shall enjoy the guarantees provided for in [part three](#) of Article 119 of the Labor Code of Ukraine, as well as in [part one](#) of Article 53 and [part two of](#) Article 57 of the Law of Ukraine on Education, [part two](#) of Article 44, [part one](#) of Article 54 and [part three](#) of Article 63 of the Law of Ukraine on Vocational Higher Education, as well as [part two](#) of Article 46 of the Law of Ukraine on Higher Education.

*{Part two was added to Article 39 in accordance with Law No. [1169-VII of 27.03.2014](#); as amended by Laws No. [116-VIII of 15.01.2015](#), [No. 433-VIII of 14.05.2015](#); as amended by Law [No. 1357-IX of 30.03.2021](#)}*

3. The state registration of entrepreneurial activity of individual entrepreneurs shall not be terminated for the citizens of Ukraine who are called up for regular military service, military service under the conscription during mobilization, during a special period, or enlisted for military service under a contract, in the event of a crisis situation threatening the national security, announcement of the decision to conduct mobilization and (or) imposition of martial law until the expiry of the special period or until the announcement of the decision on demobilization. Where they are not engaged in entrepreneurial activity during the mobilization period, such individual entrepreneurs shall not be charged taxes and fees.

*{Article 39 has been supplemented with part three according to the Law No. [1169-VII of 27.03.2014](#); as amended by the Law [No. 116-VIII of 15.01.2015](#)}*

**Article 39<sup>1</sup>.** Conscription of reservists for military service during a special period

1. For the prompt manning of the Armed Forces of Ukraine and other military formations during a special period, the Supreme Commander-in-Chief of the Armed Forces of Ukraine, upon the submission of the Commander-in-Chief of the Armed Forces of Ukraine, may decide to call up citizens of Ukraine enrolled in the military operational reserve for military service of reservists by conscription during a special period.

2. The targets, scopes, terms and procedure for carrying out conscription of reservists during a special period shall be determined by the Supreme Commander-in-Chief of the Armed Forces of Ukraine in the decision on conscription.

3. Citizens of Ukraine shall be called up for military service of reservists by conscription during a special period and notified thereof by the commanders of military units – in respect of citizens of

Ukraine who serve in the military reserve under a contract and/or are enrolled in the military operational reserve during such service, and by the heads of territorial centers of recruitment and social support – in respect of citizens of Ukraine who are enrolled in the military operational reserve after their discharge from military service.

4. Reservists shall appear at military units or to the gathering points of the territorial centers of recruitment and social support within the terms specified in the received calls (notifications).

5. Valid reasons for non-arrival to military units or to the gathering points of territorial centers of recruitment and social support within the terms specified in the received calls (notifications) shall be as follows, provided that they are confirmed by the relevant documents:

1) act of God, illness or other circumstances that prevented a reservist from arriving at the specified unit or point within the specified time;

2) death of a close relative (spouse, son, daughter, father, mother, grandfather, grandmother or sibling (full or half)) or a close relative of the spouse.

6. Citizens of Ukraine who are called up for military service as reservists during a special period shall undergo a mandatory medical examination in accordance with the established procedure.

7. The following citizens of Ukraine shall not be subject to conscription of reservists for military service during a special period if they, at the time of conscription:

1) are recognized as unfit for military service for health reasons following the medical examination;

2) have reached the age limit for staying in the reserve, or if the time remaining until such citizens reach the age limit for staying in the reserve is less than the period for which the conscription is carried out;

3) have served during the established terms of military service of reservists by conscription during a special period, and less than one year has passed since their discharge from such service;

4) have to do military service of reservists by conscription during a special period during at least one year cumulatively. During this period, such persons may be called up for military service of reservists by conscription during a special period subject to their consent.

8. Citizens of Ukraine defined in [indents four to twelve](#) of part one and [part two of](#) Article 23 of the Law of Ukraine on Mobilization Training and Mobilization shall not be subject to conscription for military service of reservists by conscription during a special period.

*{Part eight of Article 39<sup>1</sup> as amended by Law [No. 2169-IX of 01.04.2022](#)}*

9. Citizens of Ukraine who did military service as reservists by conscription during a special period, served the established terms of military service, were discharged from it and were enrolled in the military operational reserve shall not be called up for training (or testing) during one year from the date of discharge.

10. Citizens of Ukraine called up for military service as reservists by conscription during a special period shall enjoy the guarantees provided for in [part three](#) of Article 119 of the Labor Code of Ukraine, as well as in [part one](#) of Article 53 and [part two of](#) Article 57 of the Law of Ukraine on Education, [part two](#) of Article 44, [part one](#) of Article 54 and [part three](#) of Article 63 of the Law of Ukraine on Vocational Higher Education, as well as [part two](#) of Article 46 of the Law of Ukraine on Higher Education.

*{Part ten of Article 39<sup>1</sup> as amended by Law [No. 1702-IX of 16.07.2021](#) – effective since 01.01.2022}*

11. The procedure for calling up the citizens of Ukraine for military service of reservists by conscription during a special period shall be determined by this Law. The General Staff of the Armed Forces of Ukraine shall establish the peculiarities of calling up the citizens of Ukraine for military service of reservists by conscription during a special period.

12. Citizens of Ukraine who are called up for military service on the basis of the conscription of reservists during a special period and who are unemployed as of the date of conscription to the gathering points, for the entire period of their service during the special period, including the time of travel to and from the military unit, in addition to the monthly financial support, shall be paid a monetary compensation in the amount of the minimum wage established as of the 1<sup>st</sup> of January of the calendar year from the funds provided for in the state budget for the maintenance of the Ministry of Defense of Ukraine and other centers of military service.

*{Part twelve of Article 39<sup>1</sup> as amended by Laws [No. 1702-IX of 16.07.2021](#) – effective since 01.01.2022, [No. 2024-IX of 27.01.2022](#)}*

*{Chapter VII has been supplemented with Article 39<sup>1</sup> according to Law [No. 1357-IX of 30.03.2021](#)}*

## Annex 5.3: Translation of articles 22 & 23 of the Law on Mobilisation Training and Mobilisation

**Verkhovna Rada of Ukraine, Law of Ukraine, On Mobilization Training and Mobilization**, adopted in 1993, last amended on 4 November 2022, <https://zakon.rada.gov.ua/laws/show/3543-12#Text>

**Article 22.** Duties of citizens regarding the mobilization training and mobilization

1. The citizens shall:

appear on call to a territorial center of recruitment and social support (persons liable for military service and reservists of the Security Service of Ukraine – on call of the Central Directorate or regional body of the Security Service of Ukraine, persons liable for military service and reservists of the Foreign Intelligence Service of Ukraine – on call of the Foreign Intelligence Service of Ukraine) for registration of persons liable for military service or reservists and determination of their assignment during a special period;

*{Indent two of part one of Article 22 as amended by Laws [No. 2926-VI of 13.01.2011](#), [No. 267-VIII of 19.03.2015](#); as amended by Law [No. 1357-IX of 30.03.2021](#)}*

provide, in accordance with the established procedure, during mobilization, buildings, structures, vehicles and other property, which they own, to the Armed Forces of Ukraine, other military formations, and the Operational Rescue Service of Civil Protection subject to subsequent reimbursement of their cost by the state in accordance with the procedure established by law.

*{Indent three of part one of Article 22 as amended by the Law [No. 5404-VI of 02.10.2012](#)}*

2. Citizens who are in the reserve and are not called up for military service or are not involved in the performance of mobilization duties at the positions provided for by the wartime manning tables, during mobilization, may be involved in the performance of works of a defensive nature in accordance with the law.

*{Paragraph one of part two of Article 22 as amended by the Law [No. 5404-VI of 02.10.2012](#)}*

Citizens engaged in entrepreneurial activity shall perform mobilization tasks (orders) in accordance with the concluded agreements (contracts).

3. During mobilization, citizens shall appear at military units or to gathering points of the territorial center of recruitment and social support within the terms specified in the documents they received (mobilization orders, calls of the heads of the territorial centers of recruitment and social support) or within the terms determined by commanders of military units (persons liable for military service, reservists of the Security Service of Ukraine – on call of the heads of the bodies in which they are registered, persons liable for military service, reservists of the Security Service of Ukraine – on call of the heads of the bodies in which they are registered).

*{Part three of Article 22 as amended by Laws [No. 2926-VI of 13.01.2011](#), [No. 5404-VI of 02.10.2012](#); as amended by Laws [No. 1127-VII of 17.03.2014](#), [No. 267-VIII of 19.03.2015](#); as amended by Law [No. 1357-IX of 30.03.2021](#); as amended by Law [No. 2228-IX of 21.04.2022](#)}*

4. Citizens in the reserve shall be assigned to military units for military service in wartime or to the other units or formations for the performance of duties in positions provided for by the wartime manning tables in advance.

*{Part four of Article 22 as amended by the Law [No. 5404-VI of 02.10.2012](#)}*

5. The conscription of citizens for military service during mobilization or their involvement in the performance of duties at the positions envisaged by the wartime manning tables shall be carried out by the territorial centers of recruitment and social support with the assistance of local executive authorities or by the commanders of military units (for persons liable for military service and reservists of the Security Service of Ukraine – the Central Department or regional bodies of the Security Service of Ukraine, for persons liable for military service and reservists of the Foreign Intelligence Service of Ukraine – a relevant unit of the Foreign Intelligence Service of Ukraine).

*{Indent one of part five of Article 22 as amended by Law No. [267-VIII of 19.03.2015](#); as amended by Law No. [1357-IX of 30.03.2021](#); as amended by Law [No. 2228-IX of 21.04.2022](#)}*

Persons liable for military service and reservists who are on training shall continue training in case of mobilization announcement. If required, these persons shall be called up for military service by the commanders of relevant military units by order of the General Staff of the Armed Forces of Ukraine.

*{Part five of Article 22 has been supplemented with indent two according to the Law [No. 1275-VII of 20.05.2014](#)}*

The peculiarities of medical examination of persons liable for military service and reservists during mobilization for a special period shall be determined by the Ministry of Defense of Ukraine in agreement with the Ministry of Health of Ukraine.

*{Part five of Article 22 has been supplemented with the third paragraph according to the Law [No. 1275-VII of 20.05.2014](#)}*

*{Part five of Article 22 as amended by Laws [No. 2926-VI of 13.01.2011](#), [No. 5404-VI of 02.10.2012](#)}*

6. Citizens who are listed in military registries may not change their place of residence without the permission of the official specified in [part three](#) of this Article.

*{Part six of Article 22 as amended by the Law [No. 5404-VI of 02.10.2012](#)}*

#### **Article 23.** Determent of conscription for military service during mobilization

The following persons liable for military service shall not be subject to conscription during mobilization:

those booked for the period of mobilization and wartime for state authorities, other state bodies, local self-government bodies, as well as for enterprises, institutions and organizations in accordance with the procedure established by the Cabinet of Ministers of Ukraine;

those recognized disabled or, according to the conclusion of the military medical commission, temporarily unfit for military service for health reasons in accordance with the established procedure for six months (subject to repeated checkup by the military medical commission);

*{Indent three of part one of Article 23 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

women and men with three or more dependent children under the age of 18;

*{Indent four of part one of Article 23 as amended by Law [No. 1614-VII of 25.07.2014](#); as amended by Laws [No. 2226-VIII of 06.12.2017](#), [No. 2122-IX of 15.03.2022](#)}*

women and men who raise a child (children) under the age of 18 on their own;



*{Indent five of part one of Article 23 as amended by Laws [No. 1614-VII of 25.07.2014](#), [No. 2122-IX of 15.03.2022](#)}*

women and men, guardians, trustees, foster parents, foster parents raising a child with disabilities under the age of 18;

*{Part one of Article 23 has been supplemented with a new indent in accordance with Law [No. 339-VIII of 21.04.2015](#); as amended by Law [No. 2122-IX of 15.03.2022](#)}*

women and men, guardians, trustees, foster parents, foster parents raising a child with severe perinatal lesions of the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes (insulin-dependent), acute or chronic kidney disease of the 4<sup>th</sup> grade, a child who has been severely injured, needs organ transplantation, needs palliative care, which is confirmed by a document issued by the medical advisory commission of the healthcare institution in the manner and form established by the central executive body that ensures the formation and implementation of state healthcare policy, but who has not been recognized disabled;

*{Part one of Article 23 has been supplemented with a new indent in accordance with Law [No. 2226-VIII of 06.12.2017](#); as amended by Law [No. 2122-IX of 15.03.2022](#)}*

women and men having a dependent child of full legal age assigned disability group I or II;

*{Part one of Article 23 has been supplemented with a new indent in accordance with Law [No. 1614-VII of 25.07.2014](#); as amended by Law [No. 2122-IX of 15.03.2022](#)}*

adoptive parents, guardians, tutors, foster parents, foster parents, who have dependent orphans or children deprived of parental care under the age of 18;

*{Part one of Article 23 has been supplemented with a new indent in accordance with Law [No. 1614-VII of 25.07.2014](#); as amended by Law [No. 2122-IX of 15.03.2022](#)}*

providing continuous care for a sick spouse, child, as well as own and spouse's parents who, according to the conclusion of the medical and social expert commission or medical advisory commission of the healthcare institution, need continuous care;

*{Indent ten of part one of Article 23 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

who have a disabled spouse and/or one of its or spouse's parents assigned disability group I or II;

*{Paragraph eleven of part one of Article 23 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

guardians of a disabled person recognized by the court as incapacitated; persons providing continuous care for a person assigned disability group I; persons providing continuous care for a person assigned disability group II or for a person who, according to the conclusion of the medical and social expert commission or the medical advisory commission of the health care institution, needs continuous care, in the absence of other persons who can provide such care;

*{Part one of Article 23 has been supplemented with a new indent in accordance with Law [No. 1357-IX of 30.03.2021](#); as amended by Law [No. 2122-IX of 15.03.2022](#)}*

women and men who have a minor child (children) and a spouse doing military service in one of the types of military service specified in [part six](#) of Article 2 of the Law of Ukraine on Military Duty and Military Service;



*{Part one of Article 23 has been supplemented with a new indent in accordance with Law [No. 2169-IX of 01.04.2022](#)}*

people's deputies of Ukraine, deputies of the Verkhovna Rada of the Autonomous Republic of Crimea;

*{Indent of the first part of Article 23 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

employees of military administration (management bodies), military units, enterprises, institutions and organizations of the Ministry of Defense of Ukraine, the Armed Forces of Ukraine, the State Service for Special Communications and Information Protection of Ukraine, the Security Service of Ukraine, the Foreign Intelligence Service of Ukraine, the National Guard of Ukraine, the State Border Guard Service of Ukraine, the National Police of Ukraine, the Bureau of Economic Security of Ukraine, the National Anti-Corruption Bureau of Ukraine, the State Bureau of Investigation, the State Executive Service of Ukraine, the Department of State Security of Ukraine;

*{Indent of the first part of Article 23 as amended by Law [No. 2122-IX of 15.03.2022](#); as amended by Law [No. 2732-IX of 04.11.2022](#)}*

other persons liable for military service or certain categories of citizens in cases provided for by law.

*{Indent of the first part of Article 23 as amended by Law [No. 2122-IX of 15.03.2022](#)}*

Persons with disabilities, as well as persons referred to in [indents four to twelve](#) of part one of this Article, may be called up for military service during this period subject to their consent and only at their place of residence.

*{Article 23 has been supplemented with a new part in accordance with Law [No. 2122-IX of 15.03.2022](#)}*

The following persons shall also not be subject to conscription for military service during mobilization, for a special period:

students obtaining vocational (vocational-technical), professional pre-university and higher education, trainee assistants, postgraduate students and doctoral students studying full-time or following dual forms of education;

*{Indent two of Article 23 as amended by Laws [No. 2745-VIII of 06.06.2019](#), [No. 2196-IX of 14.04.2022](#)}*

scientific and scientific-pedagogical workers of higher and vocational higher education institutions, scientific institutions and organizations who have an academic title and/or a scientific degree, and pedagogical workers of vocational (vocational-technical) education institutions, general secondary education institutions, provided that they work in higher or vocational higher education institutions, scientific institutions and organizations, vocational (vocational-technical) or general secondary education institutions, respectively, and have their principal place of employment there at the rate of at least 0.75;

*{Indent three of Article 23 as amended by Laws [No. 2745-VIII of 06.06.2019](#), [No. 2196-IX of 14.04.2022](#)}*

women and men whose close relatives (husband, wife, son, daughter, father, mother, grandfather, grandmother or sibling (full or half) were killed or disappeared during the anti-terrorist operation from among:

*{The part has been supplemented with indent four according to Law [No. 1387-VIII of 31.05.2016](#)}*

servicemen or employees of military formations formed in accordance with the laws of Ukraine, who defended the independence, sovereignty and territorial integrity of Ukraine, who died or went missing during direct participation in the anti-terrorist operation, ensuring its implementation, being directly in the areas of the anti-terrorist operation during its implementation;

*{The part has been supplemented with indent five according to Law [No. 1387-VIII of 31.05.2016](#)}*

employees of enterprises, institutions and organizations who were involved in ensuring the conduct of the anti-terrorist operation and died or went missing while ensuring the conduct of the anti-terrorist operation directly in the areas and during its conduct;

*{The part has been supplemented with indent six according to Law [No. 1387-VIII of 31.05.2016](#)}*

persons who died or went missing during direct participation in the anti-terrorist operation, ensuring its conduct, while being directly in the areas of the anti-terrorist operation during its conduct as part of volunteer formations that were formed or self-organized to protect the independence, sovereignty and territorial integrity of Ukraine, provided that later such volunteer formations were included in the military formations and law enforcement agencies formed in accordance with the laws of Ukraine;

*{The part has been supplemented with indent seven according to Law [No. 1387-VIII of 31.05.2016](#)}*

persons who died or went missing during direct participation in the anti-terrorist operation, ensuring its conduct, being directly in the areas of its conduct as part of volunteer formations that were formed or self-organized to protect the independence, sovereignty and territorial integrity of Ukraine, but later such volunteer formations were not included in the military formations and law enforcement agencies formed in accordance with the laws of Ukraine, and performed the tasks of the anti-terrorist operation in cooperation with the military formations and law enforcement agencies formed in accordance with the laws of Ukraine;

*{The part has been supplemented with indent eight according to the Law [No. 1387-VIII of 31.05.2016](#)}*

women and men, whose close relatives (husband, wife, son, daughter, father, mother, grandfather, grandmother or sibling (full or half)) were killed or went missing during the implementation of measures to ensure national security and defense, repulsion and deterrence of the armed aggression of the Russian Federation in Donetsk and Luhansk regions, as well as during the implementation of measures to ensure national security and defense, repulsion and deterrence of the armed aggression against Ukraine during martial law;

*{Part three has been supplemented with indent nine in accordance with Law [No. 2491-IX of 29.07.2022](#)}*

*{Article 23 has been supplemented with a new part according to Law No. [1575-VII of 03.07.2014](#); as amended by Law [No. 277-VIII of 07.04.2015](#); as amended by Law No. [570-VIII of 01.07.2015](#)}*

Persons referred to in [indent two](#) of the first part and in [indents four to nine](#) of the third part of this Article may be called up for military service during the specified period subject to their consent.

*{Article 23 has been supplemented with a new part in accordance with Law [No. 1387-VIII of 31.05.2016](#); as amended by Laws [No. 2491-IX of 29.07.2022](#), [No. 2732-IX of 04.11.2022](#)}*

Persons liable for military service who were called up for military service during partial mobilization and were discharged from military service for reserve (except for servicemen enlisted in the military operational reserve of the first stage) shall not be subject to conscription for military service during partial mobilization during six months from the date of their discharge from military service. Such persons may be called up for military service during this period subject to their consent.

*{Article 23 has been supplemented with a part according to Law [No. 259-VIII of 18.03.2015](#); as amended by Law [No. 413-VIII of 14.05.2015](#)}*

## Annex 5.4: Translation of Resolution 57, article 2.1-2.13, Rules for Crossing the State Border by the Citizens of Ukraine.

### THE CABINET OF MINISTERS OF UKRAINE RESOLUTION

No. 57 dated 27 January 1995  
Kyiv

#### on Approval of the Rules for Crossing the State Border by the Citizens of Ukraine

2<sup>1</sup>. When a state of emergency or martial law are announced on the territory of Ukraine, the following people shall be entitled to cross the state border:

persons with disabilities, subject to the presence of a certificate confirming the relevant status or a pension certificate or a certificate confirming the appointment of social assistance in accordance with the Laws of Ukraine [on State Social Assistance to Persons with Disabilities Since Childhood and Children with Disabilities](#) and [on State Social Assistance to Persons Not Entitled to Pensions and Persons with Disabilities](#), which indicate the group and cause of disability, or a certificate for receiving benefits by persons with disabilities who are not entitled to pensions or social assistance, in the form approved by the Ministry of Social Policy (hereinafter referred to as documents confirming disability);

*{Indent two of paragraph 2<sup>1</sup> as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 1212 dated 28.10.2022}*

persons who have a spouse with a disability and accompany such spouse to travel outside Ukraine, provided that they have documents (notarized copies thereof) confirming family ties and disability;

persons with one of their parents or parents of their spouse being persons with disabilities of group I or II, who accompany one of such parents to travel outside Ukraine, provided that they have documents (notarized copies thereof) confirming kinship, disability, as well as documents confirming that they share the same household (their declared or registered place of residence (stay) coincides with the declared or registered place of residence (stay) of their parents or parents of their spouse), or care for the person with disabilities. The act of establishing the fact of caregiving shall be issued at the request of a person with a disability of group I or II or a caregiver by a district, circuit in the cities of Kyiv and Sevastopol state administration, or executive body of a village, settlement or city council, indicating that the caregiver provides relevant care. If a person with a disability of group I or II is a registered internally displaced person, the statement of care shall be submitted at the place of registration of the actual place of residence of such an internally displaced person. On the basis of such a statement of a person with a disability of group I or II or a caregiver, the district, circuit in the cities of Kyiv and Sevastopol state administration, or the executive body of the village, settlement, city council shall draw up an act of establishing the fact of care in an arbitrary form within five business days after receipt of the statement. This act shall be sent to the applicant or issued in person, at his/her request;

permanent caregivers of persons with disabilities of group I or II. who accompany such persons to travel outside Ukraine, provided that they have documents (ID cards, certificates) evidencing the receipt of compensation (assistance, allowance) for care or documents confirming disability, and an act of establishing the fact of care. The act of establishing the fact of caregiving shall be issued at the request of a person with a disability of group I or II or a caregiver by a district, circuit in the cities of Kyiv and Sevastopol state administration, or executive body of a village, settlement or city council, indicating that the caregiver provides relevant care. If a person with a disability of group I or II is a registered internally displaced person, the statement of care shall be submitted at the place of registration of the actual place of residence of such an internally displaced person. On the basis of such a statement of a person with a disability of group I or II or a caregiver, the district, circuit in the cities of Kyiv and Sevastopol state administration, or the executive body of the village, settlement, city council shall draw up an act of establishing the fact of care in an arbitrary form within five business days after receipt of the statement. This act shall be sent to the applicant or issued in person, at his/her request;

parents, guardians, custodians, foster parents, caregiving parents raising a child with a disability under the age of 18, provided that there is the child's birth certificate or documents confirming the relevant powers of the person accompanying the child with a disability (where the child is accompanied by a guardian, custodian, one or foster parents, or caregiving parents), a certificate confirming the appointment of social assistance in accordance with the [Law of Ukraine](#) on State Social Assistance to Persons with Disabilities Since Childhood and Children with Disabilities, which indicates the status of a "child with disabilities", or a certificate of receipt of state social assistance to children with disabilities issued by the business unit for social protection of the population of the district, circuit in Kyiv state administration, or the executive body of the city council, the territorial community of which includes the territory of the city of regional significance, the circuit council in the city (if any) (regardless of who is appointed as the recipient of the assistance), or an individual rehabilitation program for a child with a disability issued by the medical advisory commission of a healthcare institution, or a medical report on a child with a disability under the age of 18 (notarized copies thereof);

parents maintaining an adult child who is a person with a disability of group I or II, provided that they have a birth certificate and documents confirming the disability (notarized copies thereof);

grandparents, adult brothers, sisters, stepmothers, stepfathers accompanying children with disabilities to travel outside Ukraine, provided that they belong to the category of persons not subject to military service during mobilization, provided that they have the relevant supporting documents and documents confirming family ties (notarized copies thereof);

persons in need of constant care, accompanied by one of the family members of the first degree of kinship (within the meaning of [sub-paragraph 14.1.263](#) of paragraph 14.1 of Article 14 of the Tax Code of Ukraine), subject to the presence of documents confirming kinship and the opinion of the medical advisory commission of the healthcare institution confirming the need for constant care, or accompanied by a person who provides constant care for the said persons, subject to the presence of documents (ID card, certificate) on receipt of compensation (assistance, allowance) for care, or the opinion of the medical advisory commission of the healthcare institution confirming the need for constant care and the act of establishing the fact of providing care. The act of establishing the fact of caregiving shall be issued at the request of a person with a disability of group I or II or a caregiver by a district, circuit in the cities of Kyiv and Sevastopol state administration, or executive body of a village, settlement or city council, indicating that the caregiver provides relevant care. If a person with a disability of group I or II is a registered internally displaced person, the statement of care shall

be submitted at the place of registration of the actual place of residence of such an internally displaced person. On the basis of such a statement of a person with a disability of group I or II or a caregiver, the district, circuit in the cities of Kyiv and Sevastopol state administration, or the executive body of the village, settlement, city council shall draw up an act of establishing the fact of care in an arbitrary form within five business days after receipt of the statement. This act shall be sent to the applicant or issued in person, at his/her request;

guardians of persons with disabilities recognized by the court as incapacitated, who accompany such persons to travel outside Ukraine, provided that there is a decision appointing a guardian over such person, and if no guardian is appointed for such person, one of the adult family members of the first or second degree of kinship (within the meaning of [sub-paragraph 14.1.263](#) of paragraph 14.1 of Article 14 of the Tax Code of Ukraine), subject to the presence of documents confirming kinship and disability (notarized copies thereof);

persons with disabilities or other persons in need of permanent care who live (stay) in institutions, regardless of their form of ownership and subordination, and receive social services of inpatient care, palliative care, supported accommodation (hereinafter referred to as care institutions), accompanied by employees of the care institution authorized by the director or an acting director of the care institution (provided that there is an order of the director or an acting director of the care institution on the trip of persons with disabilities or other persons in need of permanent care abroad). At the same time, persons with disabilities or other persons in need of constant care may be accompanied by employees of the care facility who are registered with the military units in the territorial centers of recruitment and social support, the Central Office or regional bodies of the SSU or units of the Foreign Intelligence Service, at the rate of one person per 25 persons with disabilities and other persons in need of constant care.

The male citizens of Ukraine 18 to 60 years old specified in [indents three through seven, nine and ten of](#) this paragraph and [paragraph 2<sup>2</sup>](#) of these Rules may leave Ukraine on their own, without persons with disabilities, children with disabilities, persons requiring constant care, or children specified in paragraph 2<sup>2</sup> of these Rules, on the basis of a certificate confirming the consular registration of such persons with disabilities, children with disabilities, persons requiring constant care, or children specified in paragraph 2<sup>2</sup> of these Rules, documents (notarized copies thereof) giving the right to leave, as provided for in [indents three through seven, nine and ten of](#) this paragraph and [paragraph 2<sup>2</sup>](#) of these Rules, respectively, and documents specified in [paragraph 2](#) of these Rules.

Male citizens of Ukraine 18 to 60 years old, specified in [indents three to seven, nine and ten of](#) this paragraph, who accompanied persons with disabilities, children with disabilities, persons in need of constant care, or children specified in [paragraph 2<sup>2</sup>](#) of these Rules, as a condition of traveling outside Ukraine, shall return to Ukraine no later than on the date of return of the persons they accompanied to the territory of Ukraine.

The accompanying persons may leave Ukraine on their own, without the persons specified in [indent eleven](#) of this paragraph, subject to the presence of an order of the director or an acting director of the care facility on the rotation of accompanying persons from among the employees of the care facility, taking into account the requirements for such persons specified in [indent eleven](#) of this paragraph.

Within three business days after crossing the state border by organized groups of persons with disabilities referred to in [indent eleven](#) of this paragraph, the National Social Support Service shall notify the Ministry of Foreign Affairs thereof, indicating the state where such persons will be staying.



Upon the arrival of persons with disabilities referred to in [indent eleven](#) of this paragraph at a place of temporary stay outside Ukraine, accompanying persons shall, within seven business days, arrive at a foreign diplomatic mission of Ukraine in the host country to get registered with the consular authorities.

Within seven business days, a foreign diplomatic mission of Ukraine shall inform the Ministry of Foreign Affairs and the National Social Support Service of Ukraine about the inclusion of persons with disabilities referred to in [indent eleven](#) of this paragraph in the consular register through the Ministry of Foreign Affairs.

*{The Rules are supplemented by paragraph 2<sup>1</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 264 dated 12.03.2022](#); as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 383 dated 29.03.2022](#), [No. 1044 dated 10.09.2022](#)}*

2<sup>2</sup>. When a state of emergency or martial law are announced on the territory of Ukraine, the children with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes (insulin-dependent), acute or chronic kidney disease of the 4th degree, a child who has been seriously injured, needs an organ transplant or palliative care, as evidenced by a document issued by the medical advisory commission of the healthcare institution in the manner and form established by the Ministry of Health, shall be accompanied by the mother and/or father, guardian, trustee, one or both foster parents, or caregiving parents, provided that they have a certificate of receipt of state assistance for a child with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes mellitus (insulin-dependent), acute or chronic kidney disease of the 4th degree, or for a child who has suffered a serious injury, needs an organ transplant or palliative care, who has not been diagnosed with a disability, issued by the business unit for social protection of the population of the district, circuit in Kyiv state administration, the executive body of the city council, the territory of the territorial community of which includes the territory of the city of regional significance, or the district council in the city (if any) (regardless of who is appointed as the recipient of the assistance), or a document issued by the medical advisory commission of the healthcare institution in the manner and form established by the Ministry of Health, as well as documents confirming the kinship (where a child is accompanied by the mother and/or the father), or documents confirming the relevant powers of the person accompanying such a child (where the child is accompanied by a guardian, trustee, one or both foster parents, or caregiving parents). The accompanying persons may leave Ukraine on their own, without the children referred to in this indent, on the basis of the documents specified in this paragraph and [indent twelve](#) of paragraph 2<sup>1</sup>.

*{The Rules are supplemented by paragraph 2<sup>2</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 264 dated 12.03.2022](#); as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 383 dated 29.03.2022](#); as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 1044 dated 10.09.2002](#)}*

2<sup>3</sup>. When a state of emergency or martial law are announced on the territory of Ukraine, orphans, children deprived of parental care, who have not reached the age of 18 and reside or are enrolled in institutions of various types, forms of ownership and subordination for a twenty-four-hour stay (hereinafter referred to as children), shall be accompanied by a legal representative or another person authorized by him/her, if any:



a passport of a citizen of Ukraine or a child's birth certificate (in the absence of a passport of a citizen of Ukraine)/documents containing information about the person on the basis of which the State Border Guard Service will allow crossing the state border;

an order of the director or an acting director of the institution where the children lived/stayed, that the children should go abroad;

a written consent signed by the head or deputy head of the regional military administration (certified by a seal) to allow children to travel outside Ukraine, agreed with the National Social Support Service. Such a consent may be provided by electronic means of communication. If it is impossible to obtain such an approval from the regional military (military-civilian) administration, the National Social Support Service shall grant a permission for children to leave Ukraine at the request of the director of the institution/facility where the children lived/stayed, and notify the Ministry of Social Policy thereof within one business day, providing information about the children, accompanying persons, and the state of final stay;

invitation by institutions, organizations of various types and forms of ownership, authorized by the state of final residence of children or local governments of such state, to receive and accompany children from foreign states. The invitation shall specify the state of the children's final stay, the number and category of children, the conditions of their stay, the responsible organization that will accompany the children throughout the entire period of their stay outside Ukraine, and guarantees for the children's return to the territory of Ukraine.

*{Indent five of paragraph 2<sup>3</sup> as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 383 dated 29.03.2022}*

When a state of emergency or martial law are announced on the territory of Ukraine, children under the age of 18, who are not orphans or children deprived of parental care, but who are enrolled in institutions of various types, forms of ownership and subordination for a twenty-four-hour stay, or who are placed in families of foster caregivers, shall be accompanied by a person authorized by the head of the relevant institution/employee of the institution or the guardianship and custody authority or a regional military administration, accompanied by a foster caregiver who cares for children, subject to availability of:

a passport of a citizen of Ukraine or a child's birth certificate (in the absence of a passport of a citizen of Ukraine)/documents containing information about the person on the basis of which the State Border Guard Service will allow crossing the state border;

an order of the director or an acting director of the institution where the children lived/stayed;

a written consent signed by the head or deputy head of the regional military administration (certified by a seal) allowing children to travel outside Ukraine, approved by the National Social Support Service. Such a consent may be provided by electronic means of communication. If it is impossible to obtain such an approval from the regional military (military-civilian) administration, the National Social Support Service shall grant a permission for children to leave Ukraine at the request of the director of the institution/facility where the children lived/stayed, and notify the Ministry of Social Policy thereof within one business day, providing information about the children, accompanying persons, and the state of final stay;

a decision of the guardianship and custody authority on the placement of a child in a foster care family and a written consent signed by the head or deputy head of the regional military (military-

civilian) administration (certified by a seal), allowing such a family or children placed in a foster care family to leave Ukraine, indicating the state of their final stay;

invitations by institutions, organizations of various types and forms of ownership, authorized by the state of final residence of children or local governments of such state, to receive and accompany children from foreign states. The invitation shall specify the state of the children's final stay, the number and category of children, the conditions of their stay, the responsible organization that will accompany the children throughout the entire period of their stay outside Ukraine, and guarantees for the children's return to the territory of Ukraine.

*{Indent eleven of paragraph 2<sup>3</sup> as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 383 dated 29.03.2022](#)}*

Orphans and children deprived of parental care who have not reached the age of 18, as defined in [subparagraphs 2-5](#) of paragraph 6 of these Rules, accompanied by one of their legal representatives, may leave Ukraine only upon written consent of the service for children at the place of request or the service for children of the regional military (military-civilian) administration to leave, indicating the state of their final stay.

*{Indent twelve of paragraph 2<sup>3</sup> as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 383 dated 29.03.2022](#)}*

Children under the age of 16, accompanied by one of the parents, grandparents, adult brother, sister, stepmother, stepfather or other persons authorized by one of the parents with a written affidavit certified by the guardianship and custody authority, may travel outside Ukraine without the notarized consent of the other parent, subject to the presence of a passport of a citizen of Ukraine or a child's birth certificate (in the absence of a passport of a citizen of Ukraine)/documents containing information about the person on the basis of which the State Border Guard Service will allow crossing the state border. At the same time, in the event of the introduction of a state of emergency or martial law on the territory of Ukraine, the decision to grant permission to travel outside Ukraine to a male person accompanying a child under the age of 16 shall be made in view of whether the accompanying person is on the list of categories of persons exempt from military service and mobilization, provided that he or she has supporting documents.

*{Indent thirteenth of paragraph 2<sup>3</sup> as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 383 dated 29.03.2022](#)}*

Within three business days after approving the permission for the children referred to in [indents one, six, twelve](#) and [thirteen](#) of this paragraph to leave Ukraine, the National Social Support Service shall notify the Ministry of Foreign Affairs thereof, indicating the state of final residence of the children.

Upon arrival of the children referred to in [indents one, six, twelve](#) and [thirteen](#) of this paragraph at the state of final residence, the persons accompanying the children shall, within seven business days, arrive at the foreign diplomatic mission of Ukraine in the state of residence for their temporary consular registration.

*{Indent fifteenth of paragraph 2<sup>3</sup> as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 1044 dated 10.09.2022](#)}*

A foreign diplomatic mission of Ukraine shall inform the Ministry of Social Policy and the National Social Service of Ukraine about the registration of children with the consular authorities within one business day. For children to travel outside Ukraine, groups of children with

accompanying persons may be formed at the rate of one accompanying person per max 15 children/one accompanying person per max four children with disabilities.

*{Indent sixteenth of paragraph 2<sup>3</sup> as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 1044 dated 10.09.2022](#)}*

The Ministry of Social Policy, through authorized representatives of the Ministry of Social Policy, the National Social Support Service, other central executive authorities, public associations, including international ones, and persons whose activities are aimed at protecting children's rights, may, in accordance with intergovernmental agreements, monitor the conditions of children's stay outside Ukraine, observance of social standards and their rights in the state of their stay and, jointly with foreign diplomatic missions of Ukraine, promote the implementation and protection of the rights and interests of children staying outside Ukraine by their parents and other legal representatives.

*{Indent seventeenth of paragraph 2<sup>3</sup> as amended by Resolution of the Cabinet of Ministers of Ukraine [No. 1044 dated 10.09.2022](#)}*

The State Border Guard Service shall ensure unimpeded crossing of the state border by authorized representatives of the monitoring group established in accordance with the order of the Ministry of Social Policy.

*{The Rules are supplemented by paragraph 2<sup>3</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 264 dated 12.03.2022](#)}*

*{Paragraph 2<sup>4</sup> was deleted on the basis of the Resolution of the Cabinet of Ministers of Ukraine [No. 264 dated 12.03.2022](#)}*

2<sup>5</sup>. Persons with disabilities of group I and children with disabilities have the priority right to pass the types of control provided for by law at the state border crossing points. The persons accompanying them (no more than two persons) may follow them on a priority basis. At the state border crossing points for automobile traffic, priority may be given when traveling on foot or in a car, provided that there are no other persons in the vehicle in which the said persons are traveling.

Organized groups of persons with disabilities or other persons requiring constant care and residing/staying in care institutions traveling by bus shall also be entitled to priority passage of the types of control provided for by law at the state border crossing points for road traffic (provided that there are no other persons in the vehicle in which the said persons are traveling, except for persons with disabilities, other persons requiring constant care and residing/staying in care institutions, and there are no more than two persons accompanying each person with disability).

*{The Rules are supplemented by paragraph 2<sup>5</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 383 dated 29.03.2022](#)}*

2<sup>6</sup>. When a state of emergency or martial law are announced on the territory of Ukraine, the right to cross the state border, except for the persons referred to in [paragraphs 2<sup>1</sup>](#) and [2<sup>2</sup>](#) of these Rules, other persons liable for military service who are not subject to call-up for military service during mobilization shall also be entitled to cross the state border. This provision shall not apply to persons specified in [indents two through eight](#) of part three of Article 23 of the Law of Ukraine on Mobilization Preparation and Mobilization.

*{The Rules are supplemented by paragraph 2<sup>6</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 383 dated 29.03.2022](#); as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 399 dated 01.04.2022](#)}*

2<sup>7</sup>. When a state of emergency or martial law are announced on the territory of Ukraine, persons from the defense and security forces affected by the military aggression of the Russian Federation against Ukraine may travel abroad for treatment only provided that they have a passport of a citizen of Ukraine for traveling abroad or a domestic passport of a citizen of Ukraine (in their absence – documents containing information about the person on the basis of which the State Border Guard Service will allow crossing the state border) and provided that there is an opinion on the need to send a person from the defense and security forces affected by the military aggression of the Russian Federation against Ukraine abroad for treatment, and a letter from the Ministry of Health on the list of persons from the defense and security forces affected by the military aggression of the Russian Federation against Ukraine, who may be accepted for treatment abroad by healthcare facilities of foreign states, agreed with the foreign party.

Such persons shall be allowed to leave the country accompanied by one of the family members of the first degree of kinship (within the meaning of [subparagraph 14.1.263](#) of paragraph 14.1 of Article 14 of the Tax Code of Ukraine).

*{The Rules are supplemented by paragraph 2<sup>7</sup> according to the Resolution of the Cabinet of Ministers [No. 411 dated 05.04.2022](#) – valid until the date of termination or cancellation of martial law and within six months after its termination or cancellation}*

2<sup>8</sup>. When a martial law is announced in Ukraine, the drivers transporting medical and humanitarian aid by road for the needs of the Armed Forces, other military formations formed in accordance with the laws of Ukraine, as well as the population of Ukraine, may cross the state border subject to the consent of authorized officials of the State Border Guard Service, provided that they have relevant decisions to leave Ukraine, comply with the rules for crossing the state border of Ukraine, and the information about such a person is contained in a relevant information system administered by Ukrtransbezpeka.

The decision to authorize the drivers engaged in transportation for the needs of the Armed Forces, other military formations formed in accordance with the laws of Ukraine, as well as medical cargo and humanitarian aid cargo by road to leave Ukraine shall be made by the Ministry of Infrastructure or regional and Kyiv city military administrations, provided that there is appropriate justification for the volume of cargo and the number of vehicles required for its transportation in letters from any of the following bodies, enterprises, institutions or, organizations:

- military and law enforcement agencies;
- military administrations;
- medical institutions;
- senders or recipients of humanitarian aid.

The decision to leave Ukraine, which allows crossing the state border, shall be effective for a period not exceeding six months.

The Ministry of Infrastructure or regional and Kyiv city military administrations shall send to the Administration of the State Border Guard Service a decision on the departure of the persons referred to in the [first indent](#) of this paragraph from Ukraine to be taken into account when they leave Ukraine.

The persons referred to in the first indent of this paragraph may stay abroad continuously for no more than 30 calendar days from the date of crossing the state border.

Where the periods of stay abroad are exceeded and/or the purpose of traveling abroad established by this paragraph change, the Ministry of Infrastructure and military administrations shall cancel their decision to travel abroad within seven business days from the date of establishment of the said violations.

In the case of failure to confirm the purpose of the trip, authorized officials of the State Border Guard Service shall not allow the persons referred to in the [first indent](#) of this paragraph to cross the state border in accordance with the procedure established by [part one](#) of Article 14 of the Law of Ukraine on Border Control.

*{The Rules are supplemented by paragraph 2<sup>8</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 615 date 20.05.2022](#)}*

2<sup>9</sup>. When the martial law is announced on the territory of Ukraine, drivers of vehicles of business entities licensed to carry out economic activities in the international transportation of goods and passengers by road (hereinafter referred to as licensees) shall be allowed to cross the state border by authorized officials of the State Border Guard Service, provided that they comply with the rules for crossing the state border of Ukraine and that the information about such persons is available in the relevant information system administered by the State Service of Ukraine for Transport Safety (Ukrtransbezpeka).

Information about drivers referred to in the first indent of this paragraph shall be entered into the relevant information system, which is administered by Ukrtransbezpeka, on the basis of the licensee's application.

The person referred to in the [first indent](#) of this paragraph shall cross the state border only in a vehicle that is a means of carrying out the licensee's business activities and the gross weight of which is 3500 kilograms or more.

Ukrtransbezpeka shall verify the information about the vehicle based on the data contained in the Unified State Registry of Vehicles and enter the relevant data into the Unified Complex of Ukrtransbezpeka Information Systems.

One vehicle can cross the state border with:

one driver on the licensee's truck;

two drivers on the licensee's passenger vehicle (bus).

The persons referred to in the [first indent](#) of this paragraph may stay abroad continuously for no more than 60 calendar days from the date of crossing the state border.

*{Indent eight of paragraph 2<sup>9</sup> as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 1285 dated 15.11.2022](#)}*

Where the periods of stay of persons abroad established by this paragraph are exceeded, Ukrtransbezpeka may suspend the access of the relevant licensee to the Unified Complex of Ukrtransbezpeka Information Systems for three months.

The decision to terminate the licensee's access to the Unified Complex of Ukrtranssafety Information Systems shall be made by a commission, which may include representatives of the Ministry of Infrastructure and other state authorities.

The decision to terminate the licensee's access to the Unified Complex of Ukrtransbezpeka Information Systems shall be approved by the order of the Head of Ukrtransbezpeka.



The order on termination of the licensee's access to the Unified Complex of Ukrtransbezpeka Information Systems shall be published on the next day after its issuance on the official website of the Ukrtransbezpeka and sent to the licensee at the e-mail address (if any) contained in the license file.

In the case of failure to confirm the purpose of the trip, authorized officials of the State Border Guard Service shall not allow the persons referred to in the [first indent](#) of this paragraph to cross the state border in accordance with the procedure established by [part one](#) of Article 14 of the Law of Ukraine on Border Control.

*{Rules supplemented by paragraph 2<sup>o</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 615 dated 20.05.2022](#)}*

2<sup>10</sup>. When the martial law is announced on the territory of Ukraine, employees of railway transport enterprises ensuring the functioning and uninterrupted operation of the railway shall be allowed by authorized officials of the State Border Guard Service to cross the state border, provided that they have relevant decisions to leave Ukraine and comply with the rules for crossing the state border of Ukraine.

The decision to leave Ukraine shall be made by employees of railway transport enterprises ensuring the functioning and uninterrupted operation of the railway:

in respect of employees of Ukrainian Railways JSC and railway transport enterprises managed by the Ministry of Infrastructure – by the Ministry of Infrastructure;

in respect of employees of enterprises for which freight rail transport is not the main type of activity – by the regional and Kyiv city military administrations at the location of such enterprises.

The decision to leave Ukraine shall be effective during a period not exceeding six months on the basis of letters from railway transport enterprises containing relevant justifications and available evidence of the volume of cargo transportation by rail during martial law.

*{The Rules are supplemented by paragraph 2<sup>10</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 615 dated 20.05.2022](#)}*

2<sup>11</sup>. When the martial law is announced on the territory of Ukraine, the authorized officials of the State Border Guard Service shall allow the following persons to cross the state border subject to presentation of relevant supporting documents and subject to compliance with the rules for crossing the state border of Ukraine:

1) athletes included in the national teams of Ukraine in Olympic, non-Olympic sports and sports of persons with disabilities in accordance with the established procedure; coaches from the national teams of Ukraine who provide training of athletes included in the national teams of Ukraine in Olympic, non-Olympic sports and sports of persons with disabilities; sports judges and specialists who provide organizational, scientific, methodological, medical support, and anti-doping control of the preparation of athletes, who are included in the national teams of Ukraine in Olympic, non-Olympic sports and sports of persons with disabilities to participate in sports events held abroad;

2) athletes, coaches included in the teams of sports clubs of the highest divisions in game sports, persons providing organizational, scientific, methodological, medical support included in the teams of sports clubs of the highest divisions in game sports, sports judges and arbitrators for participation in sports events held abroad.

The supporting documents for the persons referred to in [subparagraph 1](#) of this paragraph are the decision of the Ministry of Youth and Sports on inclusion in the list of participants of the sports event, and the supporting documents for the persons referred to in [subparagraph 2](#) of this paragraph are a letter from the Minister of Youth and Sports, or in his/her absence – from the acting Minister of Youth and Sports to the State Border Guard Service regarding the participation of the said persons in the sports event and the crossing of the state border by respective persons.

Such a letter shall be submitted to the State Border Guard Service as part of a preliminary request (application) of the relevant entities in the field of physical culture and sports, containing an exhaustive list of persons participating in the sporting event and the duration of the event.

The persons referred to in [subparagraph 1](#) of this paragraph may continuously stay abroad for no more than 30 calendar days from the date of crossing the state border, but not less than during the period of the event specified in the Unified Calendar of Physical Culture, Recreation and Sports Events of Ukraine for the relevant year. The period of stay abroad may be extended if the said persons will participate in another sports event in another country, determined by the Unified Calendar of Physical Culture, Recreation and Sports Events of Ukraine for the relevant year, which begins within 10 business days from the date of completion of the previous sports event.

The persons referred to in [subparagraph 2](#) of this paragraph may continuously stay abroad for no more than 30 calendar days from the date of crossing the state border, but not less than during the period of the sports event specified in the letter of the Minister of Youth and Sports, or in his/her absence – by the acting Minister of Youth and Sports to the State Border Guard Service regarding the crossing of the state border by the relevant persons. The period of stay abroad may be extended if the said persons participate in another sporting event after the completion of the sporting event, according to a letter from the Minister of Youth and Sports, or in his/her absence – by the acting Minister of Youth and Sports sent to the State Border Guard Service regarding the extension of the period of stay abroad of the respective persons.

In the case of failure to confirm the purpose of the trip, authorized officials of the State Border Guard Service shall not allow the persons referred to in [subparagraphs 1](#) and [2](#) of this paragraph to cross the state border in accordance with the procedure established by [part one](#) of Article 14 of the Law of Ukraine on Border Control.

*{The Rules are supplemented by paragraph 2<sup>11</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 615 dated 20.05.2022](#); as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 1082 dated 27.09.2022](#)}*

2<sup>12</sup>. When the martial law is announced on the territory of Ukraine, male citizens of Ukraine 18 to 60 years old shall be entitled to cross the state border of Ukraine if they are traveling to work on seagoing vessels, inland navigation vessels as part of the crews of such vessels, or to undergo practical training on ships.

To cross the state border of Ukraine, such persons shall present the following documents:

1) for cadets of educational institutions:

seafarer's identity card;

a certificate from an educational institution confirming that the cadet has been sent for practical training on a vessel under the Ukrainian or foreign flag;



military registration documents with relevant marks of the district (united district), city (circuit in cities, united city) territorial center for recruitment and social support;

2) persons who are sent to work on ships as crew members of ships sailing to/from Ukrainian seaports and who have obtained the relevant education and qualifications before February 24, 2022, and graduates of educational institutions who completed their studies during martial law:

seafarer's identity card;

role on the ship (crew list);

confirmation from the Shipping Administration that copies of educational and qualification documents were received;

3) other persons who are sent to work on seagoing vessels, inland navigation vessels as part of the crews of such vessels and who have received the relevant education and qualifications before February 24, 2022, as well as graduates of educational institutions who completed their studies during martial law:

seafarer's identity card;

confirmation from the Shipping Administration that copies of educational and qualification documents were received;

military registration documents with relevant marks of the district (united district), city (circuit in cities, united city) territorial center for recruitment and social support.

When crossing the state border of Ukraine, the persons referred to in [subparagraph 3](#) of this paragraph must have an employment agreement (contract) for work on a seagoing vessel or inland navigation vessel or a letter from the shipowner or ship operator stating their intention to conclude an employment agreement (contract) with a citizen of Ukraine for work on a seagoing vessel or inland navigation vessel.

The Shipping Administration shall, within two days from the date of receipt of certified copies of documents from the persons referred to in the [first indent](#) of this paragraph (except for cadets of educational institutions), issue to such persons a confirmation of receipt of copies of educational and qualification documents in a free form, signed by the Chairman of the Shipping Administration or his/her deputy, and stamped or bearing a qualified electronic signature.

Persons referred to in [subparagraph 3](#) of this paragraph, after receiving confirmation from the Shipping Administration that copies of educational and qualification documents were received, as well as persons referred to in [subparagraph 1](#) of this paragraph between 18 to 60 years old, who have received a certificate from an educational institution on sending a cadet for practical training on a ship under Ukrainian or foreign flag, shall personally inform the relevant authorities where they are registered for military service of the same within seven days and obtain a permission to leave the place of residence from the head of the relevant district (city) territorial center for recruitment and social support (persons liable for military service and reservists of the Security Service of Ukraine, the Foreign Intelligence Service of Ukraine – a permission of the relevant head) to be presented to authorized officials of the State Border Guard Service when crossing the border.

Persons referred to in the [first indent](#) of this paragraph may continuously stay abroad for a term not exceeding the term of the employment agreement (contract).

*{The Rules are supplemented by paragraph 2<sup>12</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 992 dated 02.09.2022](#)}*

2<sup>13</sup>. When the martial law is announced on the territory of Ukraine, male citizens of Ukraine 18 to 60 years old, who are aviation personnel, state aviation supervisors or persons authorized to conduct inspections of the State Aviation Service, and employees of Ukraina State Aviation Enterprise may cross the state border, provided that they are traveling for work (performance of official duties) abroad or training, and allowed by authorized officials of the State Border Guard Service to cross the state border, subject to the fulfillment of the rules for crossing the state border of Ukraine and the presence of supporting documents.

Supporting documents for aviation personnel working for an aviation entity (resident) are as follows:

a copy of the employment agreement (contract) or the agreement for simulator training concluded between the aviation entity or aviation personnel and an organization located outside Ukraine, certified by the aviation entity (resident);

a confirmation provided by the State Aviation Administration that the person is an aviation personnel and holds the relevant certificate (ID document);

an order of an aviation entity to send a person abroad.

The supporting documents for aviation personnel who are employed or intend to be employed by an aviation entity (non-resident) are as follows:

a copy of the employment agreement (contract) concluded with an aviation entity (non-resident) or a letter from it stating its intention to conclude an employment agreement (contract), or a copy of the agreement for simulator training concluded between an aviation personnel and an organization located outside Ukraine;

a confirmation provided by the State Aviation Administration that the person is an aviation personnel and holds the relevant certificate (IS document);

military registration documents with relevant marks of the district (united district), city (circuit in cities, united city) territorial center for recruitment and social support.

A supporting document for state aviation supervision inspectors and persons authorized to conduct inspections shall be an order of the State Aviation Service on the business trip abroad of a state aviation supervision inspector or a person authorized to conduct inspections.

A supporting document for employees of Ukraina State Aviation Enterprise shall be an order of the enterprise on the employee's business trip abroad.

A person belonging to aviation personnel, who is employed or intends to be employed by an aviation entity (non-resident), shall obtain a permit to leave the place of residence from the head of the relevant district (city) territorial center for recruitment and social support (persons liable for military service and reservists of the Security Service of Ukraine and the Foreign Intelligence Service – a permission of the relevant head) to be presented to authorized officials of the State Border Guard Service when crossing the border.

Aviation personnel employed by a resident aviation entity, as well as state aviation supervision inspectors and persons authorized to conduct inspections, may continuously stay abroad during the period of a business trip. Aviation personnel who are employed or intend to be employed by a non-

resident aviation entity may continuously stay abroad for no longer than the term of the employment contract or training agreement.

*{The Rules are supplemented by paragraph 2<sup>13</sup> according to the Resolution of the Cabinet of Ministers of Ukraine [No. 1148 dated 04.10.2022](#)}*

3. Citizens under the age of 16 may leave Ukraine subject to the consent of both parents (foster parents) (hereinafter referred to as parents) and accompanied by them or persons authorized by them who have reached the age of 18 at the time of departure from Ukraine, including accompanied by the crew members of the aircraft on which they are traveling.

*{Paragraph 3 as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 527 dated 04.07.2018](#)}*

4. Citizens under the age of 16 may leave Ukraine accompanied by one of their parents or other persons authorized by one of their parents with a notarized consent:

1) subject to a notarized consent of the other parent, indicating the state of destination and the relevant time period of stay in that state, if the other parent is absent at the checkpoint;

2) without the notarized consent of the other parent:

if the other parent is a foreigner or stateless person, as evidenced by the entry about the father in the child's birth certificate, and who is absent at the checkpoint;

if the passport of a citizen of Ukraine for traveling abroad, with which a citizen under the age of 16 crosses the state border, contains an entry on departure for permanent residence outside Ukraine or a mark (stamp) on permanent consular registration in a foreign diplomatic mission of Ukraine or the fact that such a citizen in on permanent consular registration is confirmed by a certificate of consular registration, which shall be generated using the means of the departmental information system of the Ministry of Foreign Affairs;

*{Indent three of subparagraph 2 of paragraph 4 as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 733 dated 19.10.2016](#); as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 85 dated 29.01.2020](#)}*

upon presentation of the following documents or their notarized copies:

death certificate of the second parent;

a court decision to deprive the other parent of parental rights;

a court decision recognizing the other parent as missing;

a court decision recognizing the other parent as incapacitated;

a court decision authorizing a citizen under the age of 16 to leave Ukraine without the consent and accompaniment of the other parent;

a child's birth certificate issued by the civil registry office, indicating that information about the father was entered in accordance with [part one](#) of Article 135 of the Family Code of Ukraine (when a child travels abroad accompanied by a single mother);

a certificate of child support arrears, the aggregate amount of which exceeds the amount of the relevant payments for four months, issued by a state enforcement service body or a private enforcement officer;

*{Subparagraph 2 of paragraph 4 is supplemented with an indent according to the Resolution of the Cabinet of Ministers of Ukraine [No. 76 dated 14.02.2018](#); as amended by the Resolution of the Cabinet of Ministers of Ukraine [No. 619 dated 22.08.2018](#)}*

a child's birth certificate issued by a competent authority of a foreign state that does not contain information about the child's father, legalized or apostilled, and without any additional certification in cases provided for by an international treaty of Ukraine.

*{Subparagraph 2 of paragraph 4 is supplemented with an indent according to the Resolution of the Cabinet of Ministers of Ukraine [No. 527 dated 04.07.2018](#)}*

Annex 5.5: Translation of order no 313, Ministry of Defence of Ukraine, On the approval of the List of specialties and/or occupations related to relevant military occupational specialties after acquiring which women are registered for military service and the List of specialties and/or occupations related to relevant military occupational specialties

<b>MINISTRY OF DEFENSE OF UKRAINE</b>	
<b>ORDER</b>	
October 11, 2021 No. 313	
	Registered in the Ministry of Justice of Ukraine on December 3, 2021 at No. 1566/37188

**On the approval of the List of specialties and/or occupations related to relevant military occupational specialties after acquiring which women are registered for military service and the List of specialties and/or occupations related to relevant military occupational specialties**

*{Title of the Order in the wording of the Order of the Ministry of Defense [No. 35 dated February 7, 2022](#)}*

{With changes introduced in accordance with the Order of the Ministry of Defense No. 35 dated February 7,

In accordance with the requirements of [Part Eleven](#) of Article 1 of the Law of Ukraine “On Military Duty and Military Service” and [Sub-Clause 1](#) of Clause 3 of Section II of the Final and Transitional Provisions of the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Regarding the Improvement of Certain Issues of the Performance of Military Duty and Keeping Military Records”, **I HEREBY ORDER TO:**

1. Approve the following attached:

- 1) [List of specialties and/or occupations related to relevant military occupational specialties after acquiring which women are registered for military service;](#)
- 2) [List of specialties and/or occupations related to relevant military occupational specialties.](#)

*{Clause 1 in the wording of the Order of the Ministry of Defense [No. 35 dated February 7, 2022](#)}*

2. The Commander-in-Chief of the Armed Forces of Ukraine to ensure within a period of six months from the date of entry into force of this Order to bring regulatory and legal acts into compliance with this Order.

3. The Commander-in-Chief of the Armed Forces of Ukraine to ensure the submission of this Order for state registration to the Ministry of Justice of Ukraine in accordance with the established procedure.

4. This order enters into force from the day of its official publication.

**LIST**  
**of specialties and/or occupations related to relevant military occupational specialties after acquiring which women are registered for military service**

Item No.	I. Names of related specialties	Military occupational specialties
1	2	3
1	Chemistry, chemical technologies and engineering, biology	187, 188, 195, 197, 830, 831
2	Telecommunications and radio engineering	403, 420, 429, 430, 432, 441, 443, 450-455, 460, 474, 500-504, 508, 528-533, 549-553, 586, 769, 776, 782
3	Software engineering, computer science, information systems and technologies, computer engineering, systems analysis, cyber security, micro- and nanosystems engineering, automation and computer-integrated technologies	474, 478, 485, 600-604, 803, 805, 806, 815-819, 821, 909, 925, 993, 994
4	Metrology and information-measuring equipment	602, 626-632, 784, 785, 791, 805, 806, 815-821
5	Earth sciences, geography, physics and astronomy	671-673, 679, 923



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6	Food technologies, technology of production and processing of livestock products	788
7	Troop support, weapons and military equipment, light industry technologies	787, 789
8	Physical therapy, occupational therapy, medical and psychological rehabilitation, public health, physical rehabilitation, industrial pharmacy, sanitation and expertise	878
9	Dentistry, medicine, nursing, pharmacy, medical diagnosis and treatment technologies	879
10	Biomedical engineering, biotechnology and bioengineering	880
11	Veterinary medicine, veterinary hygiene	884, 885
12	Accounting and taxation, marketing, management, entrepreneurship, economics, finance, banking and insurance	900, 901, 911
13	Publishing and printing	922
14	Psychology, social work, social security	915, 929
Item No.	II. Names of related occupations	Military occupational specialties
1	2	3
1	Professionals in the field of life sciences and medical sciences, medical professionals (except nurses), medical professionals, dental professionals, research associates (dentistry), dentists, pharmacy professionals, pharmacists, medical and preventative care professionals, scientific staff in the field of medical and preventative care, other professionals in the field of medicine (except nursing and midwifery), auxiliary staff in the field of modern medicine, physiotherapy, pharmacy (except nurses), medical assistants, dental assistants, physiotherapists and massage therapists, pharmacists, other professional assistants in the field of modern medicine (except nurses)	878
2	Professionals in the field of pathology, toxicology, pharmacology, physiology and epidemiology, pathologists, toxicologists, pharmacologists, physiologists and epidemiologists, research (medical) fellows, doctors, specialists in the field of medical and preventive	879

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	medicine, professional nurses and midwives, professionals in the field of nursing care and midwives, nurses and midwives, hygienists, optometrists and opticians, nurses and midwives assisting professionals, assistants to midwifery professionals	
3	Operators of medical equipment, workers servicing equipment for the production of pharmaceutical products and cosmetics, heads of health care units	880
4	Professionals in the field of veterinary medicine, veterinarians, veterinary assistants, support staff in the field of veterinary medicine	884, 885
5	Managers (administrators) at post office and communications, employees employed at post office and similar jobs	485
6	Cooks	788
7	Translators and interpreters	914

## Annex 6: Terms of Reference (ToR)

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- **Legislation**
  - Legislation regarding exemption from military service/mobilisation under martial law
  - Legislation regarding legal exit out of Ukraine under martial law
- **Documentation**
  - Documentation of exemption from military service / mobilisation under martial law
  - Documentation of status to legally exit Ukraine
- **Situation at the borders**
  - Procedures at the border crossing points (BCPs)
  - Prevalence of inconsistency in the border crossing procedures
  - Ways of circumventing the travel ban
  - Prevalence of forged documents
  - Prevalence of organised human smuggling
  - Prevalence of corruption of authorities
  - Anti-corruption measures
- **Punishment for evasion/desertion of military service**
  - Legislation regarding punishment for illegal border crossing under martial law
  - Legislation regarding punishment of evaders and deserters from military service under martial law
  - Enforcement of legislation to punish evaders and deserters of military service during the state of emergency
  - Additional negative consequences and reprisals against military evaders and deserters from the civil society