



Home Office

# Country Policy and Information Note

## Ukraine: Military Service

Version 5.0

October 2018

# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in [the basis of claim](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

## Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general**:

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case’s specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation’s (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI’s relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the ‘cut-off’ date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

## Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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# Assessment

Updated: 12 October 2018

## 1. Introduction

### 1.1 Basis of claim

#### 1.1.1 Fear of persecution or serious harm by the state because of:

- (a) the general treatment and/or conditions likely to be faced by the person during compulsory military service duties; and/or
- (b) a person being required to perform military service during emergency mobilisation, despite their stance as a conscientious objector; and/or
- (c) treatment likely to be faced by the person during compulsory military service due to the person's sexual orientation; and/or
- (d) the penalties likely to be faced by the person's refusal to undertake, or their desertion from, military service duties; and/or
- (e) prison conditions if a draft evader convicted in absentia is held in detention on return to Ukraine.

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### 1.2 Points to note

1.1.2 Unless otherwise stated, this note refers to the position in the government-controlled areas of Ukraine. For other areas of Ukraine, decision makers should see the country policy and information note on [Ukraine: Crimea, Donetsk and Luhansk](#) and, if necessary, seek further country information and analysis on a case-by-case basis in the normal way.

1.1.3 See the CPIN on [Ukraine: Prison conditions](#) for information on this subject.

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## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum claims matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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### 2.2 Exclusion

2.2.1 If there are serious reasons for considering that the person has been involved in war crimes, serious human rights abuses or other serious crimes, decision makers must consider whether one of the exclusion clauses apply.

- 2.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection.
- 2.2.3 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and [Restricted Leave](#).

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## 2.3 Convention Reason

- 2.3.1 Religion - if a person is required to perform military service during emergency mobilisation, despite their stance as a conscientious objector.
- 2.3.2 Political opinion - if the person is a conscientious objector.
- 2.3.3 Membership of a particular social group – treatment during military service due to sexual orientation.
- 2.3.4 The individual circumstances must be taken into account when deciding on a Convention reason. See the [Asylum Instruction on Assessing Credibility and Refugee Status](#) for further information on assessing Convention reasons.
- 2.3.5 See the CPIN on [Ukraine: Prison conditions](#) for information on this subject, including guidance on Article 3 of the ECHR.

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## 2.4 Risk

### a. Requirement to undertake national service

- 2.4.1 Conscription was reintroduced in May 2014 (see [Conscription](#)). Military service is compulsory for those aged between 20 and 27 years; and the age for reservists up to 65 years depending on rank. The period of national service is 18 months (see [Eligibility](#)). There are numerous exemptions, which include conscientious objection on religious grounds for members of religious organizations registered in Ukraine (see [Exemptions](#)).
- 2.4.2 Compulsory national service is a prerogative of sovereign states. It is therefore reasonable that draft evasion and desertion are criminal offences and punishable by law – points provided for in the [UNHCR Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status](#) (paragraphs 167-174) and confirmed by the House of Lords in the case of [Sepet & Another v. SSHD \[2003\] UKHL 15](#). The [UNHCR Handbook](#) further notes, ‘Desertion or draft-evasion does not, on the other hand, exclude a person from being a refugee, and a person may be a refugee in addition to being a deserter or draft-evader’ (paragraph 167).
- 2.4.3 Therefore, a requirement to undergo compulsory military service – or punishment for failing to complete this duty – does not, in itself, constitute persecution. It will only do so where:
  - (a) military service would involve acts, with which the person may be associated, which are contrary to the basic rules of human conduct;
  - (b) the conditions of military service would be so harsh as to amount to persecution; or

- (c) the punishment for draft evasion or desertion is disproportionately harsh or severe.

2.4.4 For further information, see the [Asylum Instruction on Military Service and Conscientious Objection](#).

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**b. Whether military service would involve acts which are contrary to the basic rules of human conduct**

2.4.5 'Acts ... which are contrary to the basic rules of human conduct' is taken to mean being required to act in a way that would bring that person within the scope of Article 1F of the Refugee Convention and/or Article 12 of Council Directive 2004/83/EC (the 'Qualification Directive').

2.4.6 The law provides that conscripts are not sent to combat zones, other than to work in arsenals, and that they are not to be involved in military tasks in anti-terrorist operation zones. They mainly serve in supporting roles (see [Type of service and areas of posting](#)).

2.4.7 The evidence does not suggest that persons in the military are at real risk of being required to perform acts contrary to international law. The onus will be on the person to show otherwise. Each case must be considered on its individual facts.

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**c. Conditions of military service, and whether the requirement to perform military service puts the person at risk of serious harm or mistreatment**

2.4.8 The period of conscription is 18 months for regular conscripts and 12 months for specialists or holders of Master's degrees. Although contracted soldiers receive a salary, the [sources consulted](#) did not suggest that conscripts are paid (see [Length of service](#) and [Contractors](#)).

2.4.9 Various categories of persons are exempt from carrying out military service, including those who are unfit to do so for health reasons, those who turn 25 years old on the day of conscription, and those who have lost family members during military service (see [Exemptions](#)).

2.4.10 The law also provides for certain categories of persons to postpone military service; grounds for postponement include a variety of family, educational and professional circumstances (see [Postponement](#)).

2.4.11 There are reports from 2017 that hazing in the military continues, but the [country information](#) accessed did not give an indication of how widespread it might be. On 5 February 2015, a law was passed which authorises military commanders to use physical force against soldiers who commit criminal acts such as 'disobedience, resistance or threat to use force against the commander, voluntary abandonment of military positions and certain locations of military units in areas of combat missions' (see [Mistreatment \('hazing'\)](#)).

2.4.12 However, the Parliamentary Human Rights Commissioner monitors the military and steps are being taken to address hazing. Moreover, the introduction of contractual soldiers and resultant use of fewer conscripts has



proved to be a major factor in reducing instances of hazing, with a drop of one-third in the number of criminal offences from 2013 to 2014 (from 22 to 16 cases). Improvements in soldiers' work and living conditions, and an increase in their pay, are also expected to contribute to a decline in incidents of hazing. Furthermore, soldiers are allowed to use cell phones as a measure to improve their safety and a confidential direct telephone line has been implemented so that soldiers can report cases of harassment and abuse directly (see [Measures taken to address mistreatment](#)).

- 2.4.13 The Kharkiv Human Rights Protection Group stated that in most cases of hazing, investigations are not conducted as investigations will only be carried out if the person is able to defend themselves legally. In December 2014 the UN Committee Against Torture expressed concern about reports that hazing was continuing to take place in the army and that there was an absence of investigation, prosecution and redress for victims. Nevertheless, there are avenues of redress if hazing takes place, with the Prosecutor General's Office initiating 117 criminal proceedings in 2017 to investigate alleged hazing, resulting in the convictions of 54 service members (see [Avenues of redress](#)).
- 2.4.14 In general, the conditions likely to be faced, and the treatment likely to be received, by a person required to undertake compulsory military service would not be so harsh as to amount to persecution or serious harm and the onus will be on a person to show otherwise. Each case must be determined on the individual facts.

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#### d. Sexual orientation

- 2.4.15 The law does not make provision for LGBT persons in the army. Country evidence provides example of LGBT persons choosing to serve in the army voluntarily (see [LGBTI persons](#)).
- 2.4.16 There is no evidence to suggest that the treatment likely to be faced by a LGBT person required to undertake compulsory military service would be so harsh as to amount to persecution or serious harm. The onus would be on the person to show otherwise and each case must be determined on the individual facts.

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#### e. Punishment for draft evasion or desertion, including conscientious objection

- 2.4.17 Evasion of military service is punishable in law by up to three years' imprisonment. However, in practice, the courts issue fines or suspended sentences in most cases; such penalties are neither disproportionate nor excessive. In 2016, hundreds of cases were opened for draft evasion and the Registry of Court Decisions reported that 77 'guilty' verdicts were issued by courts as of February 2016, with the majority of defendants immediately released on probation. At the end of 2015 one person in Zakarpattia region was sentenced to 2 years in prison for draft evasion but the sentence was postponed due to the health conditions of this man. The February 2015 law

authorises the use of physical force and weapons against soldiers who commit 'criminal acts,' which includes disobedience and desertion (see [Legal framework, Annex A](#) and [Mistreatment \('hazing'\)](#)).

- 2.4.18 In the country guidance case of [VB & Another \(draft evaders and prison conditions: Ukraine\) \(CG\) \[2017\] UKUT 79 \(IAC\) \(6 March 2017\)](#) (heard on 31 October and 1 November 2016), the Upper Tribunal noted, '[t]he evidence in the public domain is that very few draft evaders have, to date, been subject to any criminal proceedings, let alone convicted of any criminal offence or sent to prison' (paragraph 57).
- 2.4.19 The Upper Tribunal in [VB and Another](#) then went on to find that:  
'At the current time it is not reasonably likely that a draft-evader avoiding conscription or mobilisation in Ukraine would face criminal or administrative proceedings for that act, although if a draft-evader did face prosecution proceedings the Criminal Code of Ukraine does provide, in Articles 335, 336 and 409, for a prison sentence for such an offence. It would be a matter for any Tribunal to consider, in the light of developing evidence, whether there were aggravating matters which might lead to imposition of an immediate custodial sentence, rather than a suspended sentence or the matter proceeding as an administrative offence and a fine being sought by a prosecutor' (paragraph 87).
- 2.4.20 The Upper Tribunal in [VB and Another](#) also noted, '...the introduction of the new Criminal Procedural Code, the CCP, which came into force on 19th November 2012, which provided for automatic bail rather than pre-trial detention in the majority of cases' (paragraph 19). It also noted, '... the presumption in favour of bail introduced for those awaiting trial and the removal of criminal penalties for minor matters' (paragraph 77). However, it also found that a draft evader avoiding conscription or mobilisation, who had been convicted in absentia and sentenced to a term of imprisonment, was at risk of being held in detention on arrival, pending a decision on any retrial (paragraph 88).
- 2.4.21 The Upper Tribunal further found that those convicted in absentia would probably be entitled to a retrial in accordance with Article 412 of the Criminal Procedure Code of Ukraine (paragraph 88); and that there is no evidence that a draft-evader avoiding conscription or mobilisation would ultimately, on a retrial, be sentenced to serve a period of imprisonment, which is a very rare occurrence (paragraph 106).
- 2.4.22 Paragraph 168 of the [UNHCR handbook](#) states that 'a person is clearly not a refugee if his only reason for desertion or draft-evasion is his dislike of military service or fear of combat.'
- 2.4.23 Desertion from military service is punishable by imprisonment for two to five years, and up to 12 years in some circumstances (see [Legal framework](#)). Such penalties are neither disproportionate nor excessive.
- 2.4.24 In the reported decision of [PK \(Draft evader; punishment; minimum severity\) Ukraine \[2018\] UKUT 00241 \(IAC\)](#) (Draft evader; punishment; minimum severity) Ukraine [2018] UKUT 00241 (IAC) (heard on 14 March 2018 and promulgated on 5 May 2018), the Upper Tribunal considered the situation for someone who refuses to carry out military service on the grounds that doing

so would associate them with breaches of international humanitarian law (IHL), stating:

'We note [...] that the definition of persecution in Article 9(1) of the Qualification Directive and its counterpart in Regulation 5(1) of the 2006 Regulations requires the act of persecution to be sufficiently serious so as to constitute a severe violation of a basic human right. [...] In other words, any prosecution or punishment for refusing to perform military service must still reach a minimum threshold of severity' (paragraph 46).

2.4.25 The Upper Tribunal in [PK](#) further stated:

'[VB](#) found that there was no real risk that a draft evader would be imprisoned for refusing to be conscripted. At paragraph 67 the Tribunal noted, after considering the background and expert evidence before it, that only a couple of persons appeared to have actually been sent to prison for conscription or mobilisation evasion, with evidence of suspended sentences, probation or fines in only tens of other cases. On the basis of the information before the Tribunal, the overwhelming majority of over 100,000 draft evaders have faced no consequences at all for their actions (paragraph 69). [...]

'It is not sufficient that national legislation makes provision for the imposition of a penalty, whether it be custodial or financial, if there is no real risk of that penalty actually being imposed' (paragraphs 57 and 58).

2.4.26 In [PK](#), the Upper Tribunal concluded:

'[...] we doubt whether a fine, probation or a suspended sentence would be sufficiently serious to amount to persecution. [...] a person will only be entitled to refugee protection if there is a real risk that the prosecution, penalty or punishment they face for refusing to perform military service in a conflict that may associate them with gross human rights abuses will result in a severe violation of their basic human rights. A deprivation of liberty may be a sufficiently serious violation, depending on its length and the person's particular characteristics, but a suspended sentence, probation or fine will generally not be a sufficiently serious violation' (paragraph 59).

2.4.27 The law provides for alternative service for those persons for whom military duty contradicts their religious convictions, if they are affiliated with religious organizations operating in accordance with the legislation of Ukraine, whose creed prohibits the use of weapons; a list of such organisations is provided by a Cabinet of Ministers decision November 1999. However, the military advisor of the European Union Delegation confirmed that there was an alternative service open for all members of any religious organization. It is the responsibility of religious institutions to ask for civil service for their followers who do not wish to handle weapons. In order to do this, the religious institutions must be registered in Ukraine. The composition of district commissions which decide on applications for alternative service is not specified in law, with some being comprised of mainly military personnel. There are reports of bribes being demanded from people who apply to be conscientious objectors. In addition, conscientious objector status may be withdrawn as a punishment for disciplinary offences during alternative service (see [Religious groups](#)).

- 2.4.28 Contrary to regular conscription, conscientious objection and alternative service are not foreseen by the Ukrainian legal framework for a person drafted through emergency mobilization. However, the introduction of contracted soldiers has put an end to the need for mobilisation (see [Mobilisation](#)).
- 2.4.29 In most cases, it is unlikely that the consequence of a person's general unwillingness to serve in the armed forces or objection to enter a 'combat zone' will be such that they can make a well-founded claim for protection. However, each case must be determined on the individual facts.
- 2.4.30 See also the country policy and information note on [Ukraine: Prison conditions](#).
- 2.4.31 For further guidance on assessing risk, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#), the [Military Service and Conscientious Objection](#), and the [Humanitarian Protection](#).

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## 2.5 Protection

- 2.5.1 As the person's fear is of persecution and/or serious harm by the state, they will not be able to avail themselves of the protection of the authorities.
- 2.5.2 For further guidance on assessing the availability of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.6 Internal Relocation

- 2.6.1 As the person's fear is of persecution and/or serious harm by the state, they will not be able to relocate to escape that risk.
- 2.6.2 For further guidance on internal relocation and the factors to be considered, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.7 Certification

Where a claim made by a draft-evader avoiding conscription or mobilisation is refused, or where the claim is made by a person who has deserted from military service, or has been convicted and sentenced in absentia to a term of imprisonment for evading conscription or mobilisation, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

- 2.7.1 For further information on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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# Country information

Section 3 updated: 15 August 2018

## 3. Military service

### 3.1 Legal context

3.1.1 The French Office for the Protection of Refugees and Stateless Persons (Office français de protection des réfugiés et apatrides, or OFPRA) carried out a fact-finding mission to Ukraine in June 2016. The report of their visit in May 2017 (OFPRA Report 2017) noted:

‘According to article 1.3 of the Law of Ukraine on Military Duty and Military Service, military duty includes:

- The preparation of citizens for military service;
- The registration of citizens at enlistment offices;
- The enlistment on a voluntary (contract) basis and conscription to the military service;
- The performance of military service;
- The performance of the military duty in the reserves;
- Observation of the rules of military registration.’<sup>1</sup>

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### 3.2 Conscription

3.2.1 The OFPRA Report 2017 stated that military service is subdivided into the following categories:

- ‘- Pre-conscripts – persons subject to registration with enlistment offices;
- Conscripts - persons registered with enlistment offices;
- Servicemen – persons carrying out military service;
- Persons liable for military service – persons in the reserve manning the armed forces and other military formations during a special period as well as in order to perform other tasks relating to the defense of the state;
- Reservists – persons liable for military service who, on a voluntary basis, carry out military service in the reserve of the armed forces and other military formations.’<sup>2</sup>

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### 3.3 Eligibility

3.3.1 Referring to various sources, the OFPRA Report 2017 stated:

‘In June 2016, representatives of the Defense Ministry of Ukraine recalled that in a move to increase the amount of military personnel, on 15th January 2015, the Ukrainian parliament had extended “the compulsory draft age for

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<sup>1</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>2</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

male citizens from 18 to 20 years”, and upgraded its upper limit from 20 to 27 years.

‘According to the Law on Military Duty and Military Service, “Ukrainian male citizens who are physically qualified for military service, over 18 years old and older, but who have not reached the age of 27, and who have no right for exemption from military service will be conscripted”.’<sup>3</sup>

- 3.3.2 The same report noted that, ‘In June 2016, representatives of the Defense ministry of Ukraine specified that Internally Displaced Persons (IDPs) who are eligible for conscription are also conscripted. However, if they are not registered, the Ministry would not consider mobilizing them a top priority: “we cannot force the people to fight their own relatives or neighbors, but counterintelligence is needed”.’<sup>4</sup>

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### 3.4 Women

- 3.4.1 The OFPRA Report 2017 stated:

‘According to Part I, Article 1, of the Law on Military Duty and Military Service and its further amendments, [...] “Women with military-related specialties, the list of which is adopted by the Cabinet of Ministers of Ukraine, and who are fit for military service in terms of health, age and family status are included in the list of registered persons liable for military service”. “In wartime, women registered with enlistment offices can be called into military service or involved in activities relating to the defense of the state. In peacetime, women can undertake active military service or service in military reserve only on a voluntary (contractual) basis”.’<sup>5</sup>

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### 3.5 Numbers of conscripts

- 3.5.1 Referring to various sources, the OFPRA Report 2017 stated:

‘According to Part I, Article 15, of the Law of Ukraine on Military Duty and Military Service, “the number of citizens of Ukraine liable for call-up for regular military service and the total expenditure required for the subsequent conscription are determined by the Cabinet of Ministers of Ukraine”. In June 2016, the Military advisor of the European Union Delegation held that [...] only a small number of conscripts were called up at once (from 16,000 to 20,000).’<sup>6</sup>

- 3.5.2 Globalsecurity.org website noted the difficulties in carrying out conscription, noting that, ‘[...] many draftees face health problems, administrative or criminal prosecution, but also lack of basic secondary education, etc.’<sup>7</sup>

- 3.5.3 The OFPRA Report 2017 stated that, ‘Out of the 15,429 young men summoned to undergo medical checks during the 2013 spring conscription

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<sup>3</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>4</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>5</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>6</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>7</sup> GlobalSecurity.org, Ukraine, ‘Military Personnel,’ undated, [URL](#)



campaign, only 750 conscripts carried their constitutional duty. Moreover, in August 2015, according to Ukrainian Deputy Defense Minister Peter Mehed, “Ukraine’s Ministry of Defense only managed to recruit about half of the 25,000 conscripts it was hoping for”.<sup>8</sup>

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### 3.6 Length of service

- 3.6.1 The OFPRA Report 2017 noted that conscription is for 18 months for regular conscripts and 12 months for specialists or holders of Master’s degrees<sup>9</sup>.

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### 3.7 Registration and call-up

- 3.7.1 Quoting various source, the OFPRA Report 2017 noted:

‘According to Part III, Article 14, of the Law on Military Duty and Military Service, “Registration of male citizens of Ukraine with enlistment offices is carried out with the purpose of listing citizens in the military register, determining available conscription resources, assessing educational backgrounds, acquired specialties or professions, as well as levels of physical fitness and personal qualities”.

‘Within deadlines established by the Cabinet of Ministers of Ukraine, heads of business institutions, organizations and educational establishments have to submit, on an annual basis, a list of citizens subject to registration with enlistment offices to the relevant regional or city military commissariats.

‘The Law on Military Duty and Military Service, Part III, Article 14, provides that: “Pre-conscripts, who have turned 17 at the time of registration, are registered with enlistment offices from January to March each year”. It lays down that “Registration is carried out by regional (city) commissariats close to conscripts’ places of residence”. “In order to register with an enlistment office, citizens of Ukraine are obliged to report in person to a military regional (city) commissariat by a date specified in call-up papers and present necessary documents, a list of which is established by the Ministry of Defense of Ukraine”.

‘In June 2016, the Military advisor of the European Union Delegation asserted that call-up papers were sent by mail or could be delivered personally to the future conscripts who were picked from all the different regions of Ukraine on a percentage basis.

‘According to Article 18, Part IV, of the Law of Ukraine on Military Duty and Military Service, “conscripts and citizens liable for military service are prohibited “to change their place of residence without prior notification to the appropriate military registration and enlistment office”.’<sup>10</sup>

- 3.7.1 In June 2015, the Immigration and Refugee Board of Canada (IRB Canada), stated the following, citing various sources:

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<sup>8</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>9</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>10</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

‘The law refers to a military service notice as a "call-up paper"... Call-up papers are issued by the city (regional) military commissariats... Article 14(6) of the same law states that "[i]n order to register with an enlistment office, citizens of Ukraine are obliged to report in person to a military regional (city) commissariat by a date specified in call-up papers and present necessary documents, a list of which is established by the Ministry of Defence of Ukraine"...

‘In correspondence with the Research Directorate, a senior program officer for Europe and Eurasia at the National Endowment for Democracy (NED), a US-based private non-profit foundation "dedicated to the growth and strengthening of democratic institutions" globally, said that notices for compulsory military service in Ukraine take the form of a piece of paper, instructing citizens to go to the commissariat for further instructions and to undergo a medical check-up. The same source further indicated that the notices are hand-delivered and require the signature of the recipient (ibid.). She noted that, as is the case with all official Ukrainian documents, the military service notice "almost certainly has a seal/stamp".<sup>11</sup>

- 3.7.2 The same source further noted that military service notices contain a warning regarding refusal or evasion of military service<sup>12</sup>.
- 3.7.3 In a January 2018 article, War Resisters’ International noted that ‘conscripts can only be legally mobilised if they sign conscription papers.’<sup>13</sup>

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## 3.8 Contractors

- 3.8.1 The OFPRA Report 2017 stated the following, quoting various sources:

‘The Law on Military Duty and Military Service and its further amendments lay down different types of military service : “Regular military service”; “Military service on a contractual basis for soldiers, sergeants and sergeant-majors”; “Military service (training) for cadets (students) at higher military educational establishments as well as at higher education establishments with military institutes, military training facilities and departments for military training (hereinafter, higher military education establishments and departments for military training at higher education establishments)” and “Military service for officers on a contractual basis”.<sup>14</sup>

- 3.8.2 The same report stated:

‘In December 2014, the Ukrainian Defense Minister Stepan Poltorak announced that by 2015 the strength of the Ukrainian Armed Forces would be increased from 130,000 to 250,000. In order to stimulate military recruitments on contract, since 2012 a salary for army “contractor” has been established. According to the White Book [a document published by law to inform the public about the activities of the armed forces and the defence policy of the state] 2014 published by the Ministry of Defense of Ukraine, at the end of 2014, the average allowance of privates and non-commissioned

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<sup>11</sup> IRB Canada, ‘UKR105186.E’, 1 June 2015. [URL](#)

<sup>12</sup> IRB Canada, ‘UKR105186.E’, 1 June 2015. [URL](#)

<sup>13</sup> WRI, ‘The return of conscription?’, 19 Jan 2018, [URL](#)

<sup>14</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)



officers (NCOs) under contract amounted to 3,453 hryvnia (UAH) [approximately £99.00]. In June 2016 representatives of the Defense Ministry of Ukraine pointed out the average salary in the armed forces was increased again in 2016 to reach UAH 7,000 [approximately £200.00]. [...]

‘According to the White Book of the Ministry of Defense of Ukraine, in 2015 the system had enabled concluding contracts with 16,100 persons, of which 11,500 (71,4%) had been young civilians, 711 (4,4%) conscripted servicemen, and 3,800 (24,2%) mobilized servicemen. [...]

‘During the 2014-2016 period, Ukrainian Armed Forces consisted of 40-60% contractors, 50% mobilized soldiers and 10% conscripts. On September 27<sup>th</sup> 2016, the Ministry of Defense announced that around 53,000 military personnel had signed contracts with the Ukrainian Army since the beginning of the year [...].’<sup>15</sup>

- 3.8.3 In April 2016, President Poroshenko stated that 22,000 servicemen had signed contracts for military service since 1 January of that year, after the salary had been increased to UAH 7,000<sup>16</sup>. The Interfax-Ukraine article of April 2016 further stated:

‘The president said contract servicemen have no problem with discipline, they are well-motivated and most of them have combat experience. "Among them there are no criminals, violators of military discipline, an overwhelming majority of them have gone through anti-terrorist operations. And now, there is no need for expensive and lengthy training, they know everything. I emphasize, once again, they all have come voluntarily," Poroshenko said.’<sup>17</sup>

- 3.8.4 In February 2018, Interfax-Ukraine reported that more than 30,700 Ukrainians had signed contracts to serve in the armed forces in 2017<sup>18</sup>.

- 3.8.5 See [Type of service](#) for further information about conditions for contractors.

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## 3.9 Reserve

- 3.9.1 Referring to various sources, the OFPRA Report 2017 stated:

‘According to Part I, Article 1, of the Law on Military Duty and Military Service and its further amendments, “Citizens of Ukraine can perform military service in the reserve of the Armed Forces formations on a voluntary basis”. “Military duty in the reserve involves the observation by persons who are liable for military service of the procedures and regulations of military registration, as well as participation in periodic training with the purpose of preserving and improving the knowledge and skills which are necessary for the performance of military service during a special period”. [...]

‘Part IV, Article 22, of the Law on Mobilization Preparation and Mobilization provides that: “Citizens who are in the reserve are pre-registered with military units (appointed) to carry out military service in wartime or are employed in the Armed Forces or other military formations”. According to the

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<sup>15</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>16</sup> Interfax-Ukraine, ‘Poroshenko sees no need [...],’ 22 April 2016, [URL](#)

<sup>17</sup> Interfax-Ukraine, ‘Poroshenko sees no need [...],’ 22 April 2016, [URL](#)

<sup>18</sup> Interfax-Ukraine, ‘Over 30,000 Ukrainians sign military contracts in 2017,’ 6 February 2018, [URL](#)

White Book [a document published by law to inform the public about the activities of the armed forces and the defence policy of the state] 2015 of the Ministry of Defense of Ukraine, reservists are posted to the positions in those military units where they served. [...]

‘According to the military advisor of the European Union Delegation in Ukraine, “mobilized personnel who were dismissed from the mobilization go back to the reserves”; [...].

‘According to Part IV, Article 22, of the Law of Ukraine on Mobilization Preparation and Mobilization, “During mobilization and wartime, those who “have the reserve status and were not called for military duty, can be recruited for the execution of defense work”.’<sup>19</sup>

3.9.2 See [Mobilisation](#) for further information on this subject.

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### 3.10 Mobilisation

3.10.1 The OFPRA Report 2017 stated:

‘According to Part II, Article 4, of the Law on Mobilization Preparation and Mobilization of 1993, “General mobilization is conducted simultaneously on the entire territory of Ukraine and applies to the national economy, the organs of the Executive, Local Self-Government, the Armed Forces, and other military formations, the civil protection forces, enterprises, institutions and organizations”. The law lays down that “Partial mobilization can be conducted in particular areas of the State, as well as applied to a particular part of the national economy, the Armed Forces, and other military formations, the Civil protection forces, enterprises, institutions and organizations”. From the moment of an announcement of mobilization, citizens registered for military duty are prohibited to change their place of residence without the consent of a military commissar. [...]

‘In an article translated into English and published by Euromaidan Press, an online newspaper founded in 2014 and registered as an NGO in Ukraine, Roman Chernyshev, the correspondent of Legal Information and communication platform LIGABusinessInform, identifies four different levels of partial mobilization, depending of the level of escalation of a conflict. At the lowest and first stage, are summoned to the army: “volunteers; reserve officers and sergeants that served in the army or other force structures and who have military specialties that are currently in demand; as well as reserve regular soldiers with wartime experience”. Are summoned during the second stage: “reserve officers and sergeants of all military specialties are summoned; the regular reserve army of all military specializations with military experiences; the higher officers of all military specialties”; during third stage: “18-year-old soldiers, women who may serve (field doctors, nurses, technical specialists); as well as those who have not served but have no “white ticket” are mobilized. The fourth and last stage, which can only be implemented if fierce war has been underway for a long time, amounts to full mobilization, with all those capable of holding weapons joining the army”.

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<sup>19</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

[...]

‘According to article 119 of the Code of Laws on Labor, anyone who is mobilized “saves its former places of employment, position and average salary at the enterprise, establishment, organization, farmers’ enterprise, agricultural cooperative regardless of the form of its subordination and ownership form, as well as at the companies of individual entrepreneurs”. According to the Law of Ukraine on Social and Legal Protection of military servicemen and members of their families, he receives monetary compensation at the expense of the State budget of Ukraine and is supposed to be granted the average salary he would have received in his company or organization.

‘Depending on their position in the Armed Forces, mobilized reservists are paid 2,100-4,500 hryvnia (UAH) [approximately £60 to £129] a month, an amount which is doubled when they are on active duty in the ATO [anti-terrorist operation] zone. Moreover, soldiers are regularly sent home, to look after “social and domestic matters”, on a sequenced rotation that covers up to 30 percent of units at a time. Many are also “being deeded small parcels of land by their local governments”. If a soldier is wounded, compensation is provided, in line with the individual’s disability. In case he is killed, his family is given a one-time 609,000 hryvnia (UAH) [approximately £17,480] benefit. These provisions apply to the citizens of Ukraine who were drafted to the military service starting from March 18th 2014, in appliance of the decree of the president of Ukraine on partial mobilization.’<sup>20</sup>

- 3.10.2 The report also referred to the waves of partial mobilisation which have taken place since 2014:

‘Altogether six waves of partial mobilization have been conducted since the beginning of the conflict [in the east of the country] in 2014. In 2014, three decrees on “partial mobilization” were passed by Ukrainian President Petro Poroshenko, respectively on March 17th, May 6th and July 21st. Partial mobilization was conducted over a period of 45 days. In June 2016, the military advisor of the European Union Delegation in Ukraine pointed out that among these six waves, the 4th was the largest with approximately 150,000 persons summoned; but hardly half of them were taken in after medical checks.’<sup>21</sup>

- 3.10.3 In April 2016, Interfax-Ukraine reported that as 22,000 servicemen had signed contracts for military service, there would be no need for a further wave of mobilization<sup>22</sup>.

- 3.10.4 Further information about the drafts of 2014 and 2015 is available in the [OFPRA Report 2017](#) (page 28).

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<sup>20</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>21</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>22</sup> Interfax-Ukraine, ‘Poroshenko sees no need [...],’ 22 April 2016, [URL](#)

### 3.11 Demobilisation

3.11.1 The OFPRA Report 2017 also described the demobilisation process which followed the six mobilisation campaigns:

‘Starting from 2015, various decrees were signed by Ukrainian President Petro Poroshenko to partially demobilize servicemen who had been summoned during the six successive mobilization campaigns. [...]

‘In June 2016, both representatives of the Ministry of Defense of Ukraine and the military advisor of the European Union Delegation confirmed that mobilized servicemen were dismissed after one year. [...]

‘In April 2016, [President Poroshenko] suspended indefinitely any new call for mobilization, stating that a sharp increase in the number of volunteers willing to sign military service contracts with the Army had made this possible.’<sup>23</sup>

3.11.2 In November 2016, Interfax-Ukraine reported that, ‘The president of Ukraine said that the last sixth wave of demobilization was completed by the beginning of November. "As president and commander-in-chief, I can report to the Ukrainian people that henceforth there will not be a single mobilized serviceman on the frontline in the ATO [anti-terrorist operation] zone.”’<sup>24</sup>

3.11.3 See [Contractors](#) for further information on this subject. See [Court cases, convictions and sentences](#) for information about the treatment of persons with religious beliefs at times of mobilisation.

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### 3.12 Crimea

3.12.1 In March 2018, Kharkiv Human Rights Protection Group stated:

‘Young Crimean conscripts have approached human rights activists complaining of demands that they renounce their Ukrainian citizenship. This alone is a war crime, but so too is Russia’s ongoing conscription of young men on territory it is illegally occupying. Lawyer Lilya Hemedzhy told a meeting of Crimea Solidarity on 2 March [2018] that they are receiving requests for advice from a lot of young men concerned about conscription into the Russian army. Some have reported attempts to force them to give up their Ukrainian citizenship. It is likely that such attempts are mainly about psychological pressure since the “fact” of Russian citizenship, which was effectively foisted on Crimeans in early 2014, would be enough for a person to be deemed liable for conscription.[...]

‘Over the four years since Russia’s invasion of Crimea, around 10 thousand young Crimeans have been conscripted into the Russian army, with the number rising each year both of conscripts and of sentences passed on those who seek to avoid Russian military service. One young man was fined 25 thousand roubles in the autumn of 2017 and is still forced to serve a year in the army.’<sup>25</sup>

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<sup>23</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>24</sup> Interfax-Ukraine, ‘Ukraine finished 6th wave of demobilization [...],’ 2 November 2016, [URL](#)

<sup>25</sup> KHRPG, ‘Russia doubles war crimes against Crimeans forced to serve in occupier’s army’, March 2018, [url](#)

### 3.12.2 The same report stated:

'In Crimea, at least two Jehovah's Witnesses have been ordered to provide "proof of change of faith" in order to be eligible for alternative civilian service. One young man received a summons from the Bakhchysarai military recruitment commission for June 14, 2017. The document included a handwritten demand that he present "documents confirming change of religion". This was after he had visited the office on June 9 and been told that he could only do alternative civilian service if he renounced his faith. This is reinstating – on occupied Ukrainian territory – a pernicious tradition from Soviet times where young Jehovah's Witnesses were forced to go to prison, rather than take up arms which their faith prohibits. Russia is also flouting the Geneva Convention's prohibition of "pressure or propaganda which aims at securing voluntary enlistment". In June 2017, there were large-scale events, with the use of various entertainment stunts and an exhibition of military technology, in both Simferopol and Sevastopol entitled: "Military contract service is your choice."<sup>26</sup>

### 3.12.3 In January 2018, Kharkiv Human Rights Protection Group stated:

'Russia is continuing to violate international law by conscripting young Crimeans into the army of an occupying state, and prosecuting those who refuse to do military service. Conscription is also forming part of Russia's mounting persecution of Jehovah's Witnesses. In reporting on a significant worsening in the human rights situation during 2017, the Crimean Human Rights Group notes that there was also a steep rise in the number of young Crimeans conscripted into the Russian Army. From around 3,100 in 2016, the number rose to almost five thousand in 2017, with CHG estimating that since Russia's invasion and annexation of Crimea around 10 thousand young men have faced conscription. Most worryingly, in 2017 for the first time, the occupation regime sent 645 young Crimeans to various military units in the Russian Federation. At least four prosecutions were initiated over so-called draft evasion, with three of the people found "guilty". Two were fined, and are still forced to do the military service. With independent media effectively stifled in occupied Crimea, it is not possible to know what the men's motives were.'<sup>27</sup>

### 3.12.4 The UN Office of the High Commissioner for Human Rights (UN OHCHR) published a report in March 2018, covering the period November 2017 to February 2018, which stated:

'The Russian Federation continued to compel Crimean residents into its armed forces, conscripting at least 4,800 men within two campaigns in 2017, in violation of international humanitarian law. In addition, courts in Crimea started to hear cases on charges of draft evasion. At least two guilty verdicts were passed, sentencing two Crimean residents to a criminal fine of 25,000 RUB each (approximately 430 USD). It should be noted that the Criminal Code of the Russian Federation also prescribes the possibility of incarcerating a person for up to two years for evading the military draft and

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<sup>26</sup> KHRPG, 'Russia doubles war crimes against Crimeans [...],' March 2018, [URL](#)

<sup>27</sup> KHRPG, '10 thousand Crimeans forced to serve in Russian Army', January 2018, [URL](#)



does not absolve those convicted from the obligation to undergo military service.’<sup>28</sup>

- 3.12.5 For further information about the situation in Crimea, see the Country Policy and Information Note on [Ukraine: Crimea, Donetsk and Luhansk](#).

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Section 4 updated: 15 August 2018

## 4. Exemptions and postponement

### 4.1 Exemptions

- 4.1.1 Quoting various sources, the OFPRA Report 2017 noted, ‘[...] according to Part III, Article 14, of the Law of Ukraine on Military Duty and Military Service, “citizens of Ukraine, who serve sentences in penitentiaries or receive compulsory medical treatment, are not subject to registration”.’<sup>29</sup>

- 4.1.2 The same report stated:

‘Part 1, Article 18, of the Law on Military Duty and Military Service specifies those who are exempted from conscription during peace time: “Those recognized as unfit for military service in peacetime for health reasons”; “Those who turn 25 years old on the day of conscription to regular military service”; “Those whose father, mother or (kin or not kin) siblings have perished, died or became invalid during the performance of military service or during training for persons liable to military service”.

‘Are also exempted: “Those who before becoming citizens of Ukraine carried out military service in other states”; “Those who were previously sentenced for committing a crime to a deprivation of liberty, a restriction of liberty, an arrest or correctional labour, including liberation from serving the sentence”; “Those who after graduation from higher education establishments have been conferred the military (special) rank of an officer (commanders)”.’<sup>30</sup>

- 4.1.3 The report further stated, ‘According to article 1 of the Law of Ukraine on Military Duty and Military Service, “Military duty does not apply to foreigners or stateless persons who reside in Ukraine”.’<sup>31</sup>

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### 4.2 Postponement

- 4.2.1 The OFPRA Report 2017 referred to several sources and stated:

‘The Law of Ukraine on Military Duty and Military Service, Part I, article 17, also lists different reasons, based on family, educational and professional grounds, which can lead to the postponement of call-up for conscription. At his request, a conscript can be granted the postponement of his call-up for family reasons if : He is the only family support for invalid or underage kin or siblings, for invalid parents, or a single father or mother ; If he is a single parent responsible for providing for two or more minors until the eldest of

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<sup>28</sup> UN OHCHR, ‘Report [...]; 16 November 2017 to 15 February 2018,’ 19 March 2018, [URL](#)

<sup>29</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>30</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>31</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

them reaches adulthood; If he is the father of a child less than three years old or of a child of more than three years who is raised without a mother, be she deceased or be it in case of a court decision ; If he is the father of two or more children. Postponement of a call-up can also be granted to a conscript if he has an invalid child, an invalid wife or a pregnant wife, or if he is orphaned.

‘According to Part I, Article 17 of The Law of Ukraine on Military Duty and Military Service, in the case of a family having two or more sons, out of whom one is carrying out regular military service, the postponement of a call-up for family reasons can also be granted to one of the sons until his brother has carried out his military service. “In cases where several sons from the same family are simultaneously called up for military service, postponement can be granted to one son on request and taking into account his parent’s considerations”.

‘Postponement of a call-up for regular military service is also granted to conscripts who wish to further their education on a full-time basis in higher education establishments, secondary and higher religious education establishments, and to those pursuing post-graduate or doctorate degrees. It also applies to citizens of Ukraine who “in the framework of international agreements are studying in education establishments in other states”.

‘Part I, Article 17, of the Law of Ukraine on Military Duty and Military Service provides that postponement of a call-up for regular military service “is granted once during the whole period of study”. By October 1st of each year, conscripts who benefit from postponements are obliged to present documents to the regional (city) military commissariats confirming that they are still entitled to it. In case they “discontinue their studies on their own initiative”, or “fail to complete a study program” outside of “health or family reasons”, they lose their right.

‘According to part I, Article 17, of the Law of Ukraine on Military Duty and Military Service, postponement of a call-up for regular military service is also granted for professional reasons to: “Pedagogical workers who have completed higher education, whose main place of employment is in a secondary education establishment – for the duration of their full-time work”; “Medical personnel – for the duration of their full-time work in the countryside”; “Graduates of education establishments and postgraduates assigned to work in the institutions of the National Academy of Sciences of Ukraine – for the whole period of work”; “Graduates of vocational schools under the condition that their employment is in an acquired profession in state-owned enterprises, institutions or organizations – for one year from the time of graduation”.

‘It also applies to “Clergymen who graduated from higher or secondary religious education establishments and hold posts in one of the religious orders that act according to the statutes (regulations) registered in accordance with established procedures – for the duration of work”; “Candidates running for office as a People’s Deputy of Ukraine registered in accordance with the established procedure – at their request – until the publication of election results”; “The heads of village and or city administrations and deputies of local councils – for the duration of their time

in office”; “Persons who are involved in farming, both independently or with their parents, – for a period of no more than one year from the moment a land plot for this activity is received”.<sup>32</sup>

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Section 5 updated: 15 August 2018

## 5. Conscientious objection

### 5.1 Religious groups

5.1.1 Quoting various sources, the OFPRA Report 2017 stated, ‘According to Part I, article 2, of the Law of Ukraine on Military Duty and Military Service, “Military service is carried out with the observance of the Constitutional requirement of the separation of church, religious organizations and the state”.’<sup>33</sup>

5.1.2 The same report stated:

‘Article 35 of the Constitution of Ukraine stipulates that “If performance of military service is contrary to the religious beliefs of a citizen, the performance of this duty shall be replaced by alternative (non-military) duty”. According to Article 2 of The Law of Ukraine on Alternative (Non-Military) Service, adopted in 1992 and amended in 1999, “Citizens of Ukraine shall be eligible for the alternative service, if the exercise of the military duty contradicts their religious convictions, and the said citizens are affiliated with religious organizations operating in accordance with the legislation of Ukraine, whose creed prohibits the use of weapons.”

‘A list of the latter is provided by the Cabinet of Ministers decision No. 2066 of 10 November 1999. It consists of:

- (a) Adventist-Reformists;
- (b) Seventh Day Adventists;
- (c) Evangelical Christians;
- (d) Evangelical Christians – Baptists;
- (e) “The Penitents” or Slavic Church of the Holy Ghost;
- (f) Jehovah’s Witnesses;
- (g) Charismatic Christian Churches (and churches assimilated to them according to registered statutes);
- (h) Union of Christians of the Evangelical Faith – Pentecostals (and churches assimilated to them according to registered statutes);
- (i) Christians of Evangelical Faith;
- (j) Society for Krishna Consciousness.

‘The Institute for Religious Freedom (IRF), a human rights non-governmental organization dedicated to the promotion of the realization of the right to freedom of conscience, religion, opinion and other related human rights in

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<sup>32</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>33</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)



Ukraine, deplores however that this list of religious organizations has never been reviewed. [...]

'In June 2016, representatives of the ministry of Defense of Ukraine stated that for "people who, according to their moral or religious beliefs, did not wish to handle weapons, it was the responsibility of their religious institutions to ask for civil service". In order to do so, though, the religious institutions should be registered in Ukraine and have all the registration to make a plea for a person. The military advisor of the European Union Delegation confirmed that there was an alternative service open for all members of any religious organization. According to him, it was the responsibility of the organization to provide a letter for the concerned member so that he could apply for alternative service.'<sup>34</sup>

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## 5.2 Alternative service

### 5.2.1 Referring to various sources, the OFPRA Report 2017 stated:

'Since the revision of 1999, the Ministry of Labour and Social Policy is in charge of processing the applications for recognition of conscientious objector status; the administration of alternative service works under its supervision. However, in a recommendation paper, revised in 2013 and submitted to the 108th Session of the United Nations Human Rights Committee, the International Fellowship of Reconciliation (IFOR), Conscience and Peace Tax International (CPTI) and the Center for Civil Liberties, Kyiv, stress that "the precise composition of the district alternative service commissions who decide on individual applications does not seem to be specified in the Law". Moreover, according to the same source it appeared on investigation that some commissions "at least prove to contain a majority of military personnel, which is not compatible with the processes being under civilian control". [...]

'Since an amendment of 18th May 2004, the length of alternative service, provided by Article 6 of the Law on Alternative Service, has been reduced. According to the legislation, it is equal to one-and-a-half times that of the military service which would be otherwise required from the person concerned. In a recommendation paper revised in 2013 and submitted to the 108th Session of the United Nations Human Rights Committee, this duration of alternative service is considered as discriminatory by the International Fellowship of Reconciliation (IFOR), Conscience and Peace Tax International (CPTI) and the Center for civil liberties, Kyiv.

'According to Article 13 of the Law of Ukraine on Alternative (Non-Military) Service, "those who apply to perform alternative service have no choice as to which placement they are assigned to", and the list of eligible institutions is unduly limited. Part II, Article 5, of the Law on the Armed Forces of Ukraine, provides that "some positions in the Armed Forces can be manned by citizens carrying out alternative service". Contrary to regular conscription however, there is however no clear provision in the legal framework

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<sup>34</sup> OFPRA, 'Fact Finding Mission Report - Ukraine,' May 2017, [URL](#)

concerning conscientious objection and alternative service for those who are drafted through emergency mobilization.’<sup>35</sup>

- 5.2.2 The OFPRA Report 2017 noted, ‘Contrary to regular conscription, conscientious objection and alternative service is not foreseen by the Ukrainian legal framework for individuals drafted through emergency mobilization.’<sup>36</sup>

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### 5.3 Court cases, convictions and sentences

- 5.3.1 The OFPRA Report 2017 referred to various sources, stating:

‘In June 2016, the military advisor of the European Union Delegation in Ukraine pointed out that he had neither heard of people being deprived of their rights to alternative service nor heard of violations of human rights. The Institute for Religious Freedom (IRF) observes that in a decision dated June 11th 2015, the Kharkiv County Administrative Court confirmed the right to alternative service of a religious plaintiff whose call-up wasn’t declared in the context of mobilization. In this case, the Court specified that the norms of the Constitution should be used as norms of direct application.

‘Still, in a recommendation paper revised in 2013 and submitted to the 108th Session of the United Nations Human Rights Committee, the International fellowship of reconciliation (IFOR), Conscience and peace tax international (CPTI) and the Center for civil liberties, Kyiv quoted a past Secretary of the Alternative Service Committee responsible for considering applications, as saying that “Since it is impossible to have a board of experts verify one’s true beliefs”, it is provided by law that “these beliefs can be put to the test”. The same source also quotes unverifiable reports of bribes being demanded after application for conscientious objector status.

‘According to IFOR, CPTI and the Center for civil liberties, Kyiv, Article 8 of the Law of Ukraine on Alternative (Non-Military) Service also provides “a list of disciplinary offences in the performance of alternative service (including participation in strikes) for which the recognition of conscientious objector status may be completely inappropriately withdrawn, and the military service requirement reinstated”. And, “while Article 9 allows for the possibility of releasing a conscript who converts to one of the recognized denominations after recruitment, in all other cases it stipulates a very tight time window for lodging the application”.’<sup>37</sup>

- 5.3.2 The same report provided information about the situation during times of mobilisation:

‘Regarding mobilized servicemen, the Institute for Religious Freedom (IRF) asserts that “the religious beliefs of conscientious objectors summoned in the course of the waves of emergency mobilization are usually ignored”. As an example, IRF quotes different court decisions according to which the rights of the mobilized religious person to alternative service was denied. Among them, it quotes a decision of the Court of Appeal of Rivne region

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<sup>35</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>36</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>37</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

(dated 17.11.2015), and another decision of the Terny District Court, in the city of Kryvyi Rig (dated 10.09.2015), sentencing a religious person, who “refused being mobilized due to the fact that he is not allowed to hold weapon based on his religious beliefs” to 2 years in prison with probation period.

‘Conversely, however, IRF also lists a decision of Rivne County Administrative Court (dated 14.04.2015) concluding in the right to exemption from military service of a religious person at the time of mobilization due to his religious beliefs. According to IRF, the Court pointed out that “analysis of the applicable legislation gives reasons to state that military service at the time of mobilization can be substituted with an alternative (non-military) service for religious citizens, who told about inability to do military service due to their religious beliefs” .’<sup>38</sup>

5.3.3 The US State Department International Religious Freedom Report for 2017 (USSD IRF Report 2017) stated:

‘On September 25 [2017], the Mykolayiv District Administrative Court revoked a decision by the Vitovsky District State Administration that denied a Jehovah’s Witness the right to alternative nonmilitary service. On September 1 [2017], the Slovyansk District State Administration denied a request by a conscript, a Jehovah’s Witness since 2011, to seek alternative service, citing lack of evidence that the applicant’s religious beliefs were “genuine,” and despite a letter from the Religious Center of Jehovah’s Witnesses confirming the applicant’s religious affiliation.’<sup>39</sup>

5.3.4 See [Mobilisation](#) for further information on this subject.

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Section 6 updated: 15 August 2018

## 6. Conditions of service

### 6.1 Type of service and areas of posting

6.1.1 Quoting various sources, the OFPRA Report 2017 stated:

‘In June 2016, the Military advisor of the European Union Delegation in Ukraine asserted that conscripts mainly serve in supporting roles in backward positions and that sending conscripts to combat zones is against the law. Many conscripts are actually drafted into the Navy and the Air Force, but only few into the Army and the National Guard (the latter is mostly guarding public buildings). Representatives of the Ministry of Defense of Ukraine specified that, in anti-terrorist operation (ATO) zones, conscripts could however still work in arsenals. Indeed, the law provides that in the ATO zone, conscripts would not be involved in military tasks.’<sup>40</sup>

6.1.2 However, the same report noted that, ‘[...] recruits on contract basis get 2 or 3 months training, followed by Anti-Terrorist Operation (ATO) [anti-terrorist

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<sup>38</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>39</sup> USSD IRF Report 2017, 29 May 2018, [URL](#)

<sup>40</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

operation] training, and can be deployed to the ATO zone after a minimum of 3 months.’<sup>41</sup>

6.1.3 In November 2016, Interfax-Ukraine reported on the situation following the sixth wave of demobilisation: ‘[Poroshenko] went on to emphasize that only contract soldiers, volunteers remain at the front, who have undergone quality training and drilling, including with assistance from Ukraine’s foreign partners [...]’.<sup>42</sup> In October 2016, President Poroshenko stated that conscripts would not be sent to the anti-terrorist operation zone<sup>43</sup>.

6.1.4 For further information about contracted recruits, see [Contractors](#).

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## 6.2 Mistreatment (‘hazing’)

6.2.1 The US State Department Country Report on Human Rights Practices for 2017 (USSD HR Report 2017) stated that, ‘Reports of hazing in the military continued.’<sup>44</sup>

6.2.2 The Parliamentary Commissioner of Ukraine for Human Rights (PCUHR) published a report in 2014, which stated:

‘Analysis of condition of military discipline as a generalized index of morale of military groups shows that there are significant shortcomings in the work of command and control that lead to crime and cause distrust of the state. In that respect, hazing as a phenomenon is one of the most pressing violations of human rights of a military officer.

‘Violation of statutory rules of conduct by military officers - illegal substitution of relations between personnel, established by military regulations of the Armed Forces of Ukraine, with physical violence, moral humiliation, humiliation of honor and dignity, coercion of one officer by another to perform their military service duties in their stead and provision of personal services, physical and mental health damage that entails disciplinary or criminal liability.’<sup>45</sup>

6.2.3 Referring to various sources, the OFPRA Report 2017 stated:

‘On February 5th 2015, Ukraine’s parliament passed new a law [sic] authorizing the use of physical force against defectors by military commanders. According to the new article 22(1), which was added to the charter regulating service in the armed forces of Ukraine, commanders “have the right to personally use physical force, special means, and weapons when in combat” against soldiers who commit “criminal acts”, the latter being described as “disobedience, resistance or threat to use force against the commander, voluntary abandonment of military positions and certain locations of military units in areas of combat missions”. In an explanatory note attached to the document “mass violations of military discipline, in

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<sup>41</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>42</sup> Interfax-Ukraine, ‘Ukraine finished 6th wave of demobilization [...]’, 2 November 2016, [URL](#)

<sup>43</sup> Interfax-Ukraine, ‘No plans for seventh round of mobilization,’ 11 October 2016, [URL](#)

<sup>44</sup> USSD HR Report 2017, Section 1.c, 20 April 2018, [URL](#)

<sup>45</sup> PCUHR, ‘Alternative Report [...]’, 2014, [URL](#)

particular, desertion from units and drinking alcohol, as well failure to execute commanders' orders" are said to have been observed.<sup>46</sup>

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### 6.3 LGBTI persons

6.3.1 Quoting various sources, the OFPRA Report 2017 stated, 'Asked if there were any provision in the legal framework pertaining to LGBT people, in an interview conducted in June 2016 with the Austrian and French asylum COI experts on Ukraine, the Ministry of Defense of Ukraine asserted that there is nothing in the laws.'<sup>47</sup>

6.3.2 In November 2017, the news website NBC News published an article on the experiences of LGBTI persons in the Ukrainian military:

'Zhenya, a 32-year-old combat medic and queer woman who joined the Ukrainian military at the beginning of 2016, signed a three-year contract and has already been deployed three times with a fourth stationing on its way. [...]

'Andriy Chumakov, 34, said heterosexual and gay people were afraid to go into the military at one time because of "the beatings and the exploitation." "It's changed now," he said. "People go there voluntarily, because they care about having their country not invaded by another country."

'While Chumakov, who is openly gay, is not technically in the military, he has been collecting and sending supplies to the front line as a volunteer since the conflict began.

'Anastasia Polyanskaya, a 41-year-old transgender woman, also felt compelled to serve her country, volunteering for the Ukrainian military in 2015. Her first deployment was at the border with Trans-Dniester (a breakaway region that the United Nations recognizes as a de jure part of Moldova), where it was feared Russian troops could move into Ukraine from the West.

'After being injured and spending three months in the hospital, Polyanskaya is now being discharged. She is not entirely disappointed to have her military service come to an end. "I can't be the woman that I am there," she said. "It seems like being transgender shouldn't matter, but it does." She hopes one day this will change.

'The Ukrainian military's poor reputation started to turn with the rise in volunteer battalions, which flooded the front line — and included nontraditional troops, like openly LGBTQ people and women — and fought alongside Ukrainian soldiers against the Russian intervention.

'While broader Ukrainian society has its share of overt homophobic threats [...] Chumakov said threats like these do not exist in the army.

"The most horrible thing that can happen is a light joke that comes from elderly Soviet people," he said, recalling experiences of the openly gay soldiers that he knows and his own personal encounter delivering supplies to

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<sup>46</sup> OFPRA, 'Fact Finding Mission Report - Ukraine,' May 2017, [URL](#)

<sup>47</sup> OFPRA, 'Fact Finding Mission Report - Ukraine,' May 2017, [URL](#)



the front line. “On the street during the [Euromaidan] Revolution everyone was the same,” he said, referring to the uprisings in February 2014 that led to the ouster of Viktor Yanukovich as president. “Old, young, gay, straight, whatever. All social borders were broken.”

‘Zhenya, who has spoken to some of her military colleagues about LGBTQ issues, including the March of Equality [a rally in support of the LGBTI community], agrees.’<sup>48</sup>

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## 6.4 Measures taken to address mistreatment

### 6.4.1 The PCUHR report of 2014 referred to monitoring of ‘hazing’ and steps taken to address it:

‘Monitoring by the Human Rights Commissioner of socio-psychological processes in military units testifies to an ineffective study by military unit commanders of mental characteristics of their personnel, their failure to take those into account when determining the professional designation, appointments and in the composition of crews and combat units. [...]

‘In November 2013, the senior officers of the General Staff of the Armed Forces of Ukraine approved organizational and methodology guidelines for organizational work with personnel in the Armed Forces of Ukraine. The said document envisages measures to be taken in order to organize individual educational work, psychological support of life of troops; provides methods of organizing professional and psychological selection in the Armed Forces of Ukraine, and on the procedures for evaluation morale of personnel in the Ministry of Defence and the Armed Forces of Ukraine etc. [...]

‘In order to comprehensively and objectively inform the public by bodies of executive power, taking into account the proposals of non-governmental organizations, public councils under the Ministry of Defense of Ukraine and other law enforcement agencies have been established and operational.

‘In order to improve the educational work, formation of the necessary psychological characteristics of military personnel and effectively influence the formation of social and psychological processes in military groups, since 1997 the Military Institute of Kyiv Taras Shevchenko National University has been training specialists in "Military Psychology", and since 2000 – in "Political Studies". In recent years, the Institute has been holding annual refresher courses for educational and socio-psychological professionals with military units and detachments of the Ministry of Defense of Ukraine and the General Staff of the Armed Forces of Ukraine.

‘Organizational arrangements, adopted recently for the transition to the Armed Forces manning on a contract basis make it possible to expect that the problem of so-called "hazing" will be overcome. Moving away from conscription for military service has become a major factor in reducing the number of such offenses. Thus, the number of criminal offenses related to such relations in 2014 relative to 2013 (as of October, 2014) decreased by one third (from 22 to 16 cases). The facts of the offenses resulted in

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<sup>48</sup> NBC News, ‘Ukraine’s LGBTQ soldiers [...],’ 28 November 2017, [URL](#)

pronouncement of 3 sentences, while investigations on the other cases continue.<sup>49</sup>

6.4.2 The Kharkiv Human Rights Protection Group (KHRPG) published a report in 2014, which suggested that a planned improvement in soldiers' work and living conditions, and an increase in their pay, were also expected to contribute to a decline in incidents of hazing<sup>50</sup>.

6.4.3 The Kharkiv Human Rights Protection Group further stated:

'As a measurement to guarantee servicemen's personal safety Aleksey Sereda, military commissioner of Kharkiv region and head of the military garrison in Kharkiv, informed in an interview with "Vecherny Kharkov" that soldiers are already allowed to use cell phones and a confidential direct telephone line has been implemented so soldiers can report cases of harassment and abuse directly. Nevertheless, further efforts by the Ukrainian government are still required in order to protect servicemen from violation of their human rights and to ensure efficient criminal prosecution in the relevant cases.'<sup>51</sup>

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## 6.5 Avenues of redress

6.5.1 The USSD HR Report 2017 noted, 'The PGO [Prosecutor General's Office] stated it initiated 117 criminal proceedings to investigate alleged hazing in the military that resulted in convictions of 54 service members.'<sup>52</sup>

6.5.2 The Kharkiv Human Rights Protection Group's 2014 report further stated:

'In practice, the overall cases of hazing in the Ukrainian armed forces remain latent, since for the most part no proceedings are instituted; no investigations conducted and guilty persons remain usually unpunished. Only if the victims have the courage to defend themselves legally and if criminal proceedings are actually initiated, incidents become public.

'In recent years, several cases of hazing became known. [...] For example, in April 2011 it was reported that in Dnipropetrovsk a senior lieutenant hazed subordinate soldiers. He used violence against them, punched them in the face and hit them with a spade. He also humiliated his victims by forcing them to carry out hard labor and excessively exhausting physical exercises. According to Article 424 of the Criminal Code (excess of power and authority by military officials) the senior lieutenant was sentenced to four years and six months imprisonment. [...] One reason for the severe judgment might be the sharp increase in registered cases of hazing in 2010 by 20 percent compared to the previous year, so the government registered the necessity to do something about it.

'In July 2011, the military prosecutor in Simferopol garrison during the prosecutor's inspection of servicemen's life-and-health protection in one unit of the Ministry of Defense of Ukraine deployed in the Crimea, found numerous cases of hazing among servicemen. In two cases proceedings

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<sup>49</sup> PCUHR, 'Alternative Report [...],' 2014, [URL](#)

<sup>50</sup> KHRPG, 'Comments of the Kharkiv Human Rights Protection Group [...],' 2014, [URL](#)

<sup>51</sup> KHRPG, 'Comments of the Kharkiv Human Rights Protection Group [...],' 2014, [URL](#)

<sup>52</sup> USSD HR Report 2017, Section 1.c, 20 April 2018, [URL](#)

were instituted according to paragraph 2 of Article 424 of the Criminal Code of Ukraine. In the first case the junior sergeant harassed and beat a subordinate servicemen for refusing to bring two bottles of beer, and in another case a junior sergeant, wanting to demonstrate his physical superiority and advantage of his official position, repeatedly beat three subordinate servicemen.

‘Another incident was reported in August 2012 by the newspaper “Segodnya” that in the military unit T0300 stationed near the town Stary Sambir a senior soldier beat two conscripts who had been drafted more recently. The Prosecutor’s office in Zakarpattia region charged the perpetrator under Article 406(2) of the Criminal Code (violation of the regulations on personal relations among servicemen in the absence of subordinate relations). In case of conviction, the soldier might face two years of service in a disciplinary unit or from two to five years of imprisonment.’<sup>53</sup>

6.5.3 The UN Committee Against Torture (UN CAT) published a report in December 2014 which stated:

‘The Committee is concerned at reports that hazing continues to take place in the army and at the absence of investigation and prosecution of such cases and the absence of redress for victims (arts. 2 and 16).

‘The Committee reiterates that the State party should:

‘(a) Reinforce measures to prohibit and eliminate ill-treatment in the armed forces and ensure prompt, impartial and thorough investigation of all allegations of such acts; establish the liability of direct perpetrators and those in the chain of command; prosecute and punish those responsible with penalties that are consistent with the gravity of the act committed; make the results of such investigations public; and provide the Committee with information on the follow-up to confirmed cases of hazing in the army;

‘(b) Provide redress and rehabilitation to victims, including through appropriate medical and psychological assistance, in accordance with the Committee’s general comment No. 3.’<sup>54</sup>

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Section 7 updated: 15 August 2018

## 7. Draft evasion and desertion

### 7.1 Legal framework

#### 7.1.1 Quoting various sources, the OFPRA Report 2017 stated:

‘Avoidance of conscription, mobilization, military registration or special assemblies, is punishable by law. According to article 335 of the Criminal Code of Ukraine, “Avoidance of conscription for active military service, - shall be punishable by restraint of liberty for a term up to three years”. Article 336 provides that “avoidance of mobilization - shall be punishable by imprisonment for a term two to five years”, whereas Article 337 lays down that: “(§1) avoidance of military registration by a person bound to military

<sup>53</sup> KHRPG, ‘Comments of the Kharkiv Human Rights Protection Group [...],’ 2014, [URL](#)

<sup>54</sup> UN CAT, ‘Concluding observations [...] [CAT/C/UKR/CO/6],’ 12 December 2014, [URL](#)



service after notification by an appropriate military commissariat - shall be punishable by a fine up to 50 tax-free minimum incomes, or correctional labor for a term up to two years, or arrest for a term up to six months” and “(§2) avoidance of military training or special assemblies by a person bound to military service, - shall be punishable by a fine up to 70 tax-free minimum incomes, or arrest for a term up to six months”.

‘Article 408 of the Criminal Code of Ukraine provides that “Desertion, that is the absence from a military unit or place of duty 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, shall be punishable by imprisonment for a term of two to five years”; “(§2) Desertion with weapons or of a group of persons upon their prior conspiracy, shall be punishable by imprisonment for a term of five to ten years”; “(§3) Any such act as provided for by paragraph 1 or 2 of this Article, if committed in state of martial law or in a battle, shall be punishable by imprisonment for a term of five to twelve years”.

‘According to Article 409 of the Criminal Code of Ukraine “(§1) Evasion of military service by a military serviceman by way of self-maiming or malingering, or forgery of documents, or any other deceit, shall be punishable by custody in a penal battalion for a term up to two years, or imprisonment for the same term“; “(§2) Refusal to comply with the duties of military service, shall be punishable by imprisonment for a term of two to five years”; “(§3) Any such acts as provided for by paragraph 1 or 2, if committed in state of martial law or in a battle, shall be punishable by imprisonment for a term of five to ten years”.’<sup>55</sup>

#### 7.1.2 The same report mentioned the position regarding foreign travel for those subject to mobilisation:

‘Since January 30th 2015, a new government decree on Additional Measures to Ensure the Holding of Partial Mobilization in 2015 (#40/2015), regulates foreign travel for those subject to mobilization. In order to travel abroad, citizens of Ukraine, at the age for being conscripted, must show a document issued by a military commissariat. According to War Resisters’ International (WRI), a global pacifist and anti-militarist network with over 80 affiliated groups in 40 countries, those guilty of draft-dodging could be arrested and face up to five years in prison. [...] Moreover, According to article 210 of the Code of Ukraine on Administrative Offenses, dodging of reservists from mobilization for service in the Anti-Terrorist Operation zone constitutes an offense.’<sup>56</sup>

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## 7.2 Evasion

### 7.2.1 The OFPRA Report 2017 stated ‘Some evaders have purposely been hiding to avoid military service, but there might also be other reasons for them not to show up, like living at a different address, being on a trip, etc. In June

<sup>55</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>56</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

2016, the military advisor of the European Union Delegation in Ukraine asserted that there were de facto many ways to avoid military service, among which “corruption”: “you can pay to avoid going to the front”.<sup>57</sup>

7.2.2 The website Global Security.org provided undated information, noting that, ‘military commissioners, appointed by the General Staff, were “massively infected with corruption and incompetence”.<sup>58</sup>

7.2.3 The OFPRA Report 2017 continued:

‘In 2012, according to an article of the Ukrainian newspaper “Segodnya” (Today), the “going rate” for to be [sic] exempted from the spring 2012 call-up draft amounted to between 4,000 and 6,000 hryvnia (UAH) [approximately £115 to £172], draftees having notably “perfected the art of having call-up postponed for health reasons.” [...]

‘According to the Ministry of Defense, these points were however eventually tackled and the number of people who refused to take part in ATO [anti-terrorist operations] later dropped to less than 1 percent. Still, in June 2016, the military advisor of the European Union Delegation in Ukraine asserted that [...] those who had to sign that they received a mobilization order mostly “pretended they had left”. De facto, many categories are dispensed and even if you haven’t got the proper document to do so “it is very easy to avoid mobilization even inside Ukraine”. [...]

‘Among the evaders, some are disturbed by the prospect of fighting their own countrymen, others are against the war in principle, but some of them are just afraid. In September 2015, the Organization for Security and Co-operation in Europe (OSCE) reported that many men of military age avoided registering as internally displaced persons “for fear of being mobilized”; they also “refrained from applying for the government’s special entry/exit permit needed to move across the contact line, due to the belief that these permits are issued together with military draft notices”. [...].<sup>59</sup>

7.2.4 In May 2015, the website YourNewsWire reported:

‘It is being reported by the German newspaper Handelsblatt that conscription evasion in Ukraine has skyrocketed with 95% of working-age men in Kiev alone evading military service, using various methods from bribery to fleeing to other countries.

‘Companies are struggling to find a false excuse for their employees in order to help them avoid military service. The illegal business is thriving, with doctors trading medical certificates and travel agencies organizing “special trips” for those seeking to leave the country.

‘Residents of Western Ukraine usually flee to Europe, while men from eastern provinces go to Russia, the article said.

‘The newspaper recalled the recent arrest of a medical worker from Chernivtsi who issued faked medical certificates with his signature for 3,500

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<sup>57</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>58</sup> Globalsecurity.org, Ukraine, ‘Military Personnel,’ undated, [URL](#)

<sup>59</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

euros. In western Ukraine, more than half of the youth population has left the country over last few months.

‘Overall, 70% of the working population in the western regions of Ukraine went to neighboring Poland and Romania, and many others fled to Italy, Germany and Austria. [...]. The situation in the eastern regions is similar, with many residents going to neighboring Russia for work and staying there to avoid military service, Handelsblatt reported.’<sup>60</sup>

- 7.2.5 The USSD HR Report 2017 noted, ‘Critics accused internally displaced men who moved to western areas of the country of evading military service [...].’<sup>61</sup>

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### 7.3 Desertion

- 7.3.1 The OFPRA Report 2017 stated, ‘In 2014, [...] according to the White Book [a document published by law to inform the public about the activities of the armed forces and the defence policy of the state] of the Ministry of Defense of Ukraine, in the anti-terrorist operation (ATO) zone, up to 30 percent of soldiers abandoned their post due to unpreparedness, poor training and insufficient mental stability.’<sup>62</sup>

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### 7.4 Numbers of evaders and deserters

- 7.4.1 The OFPRA Report 2017 stated:

‘Different sources assert evasion and desertion from military service have been practices since the beginning of the conflict. Their scope has however been regularly challenged by Russian and Ukrainian politicians, the latter accusing the former of inflating figures to incite people to resist the mobilization draft. At the beginning of the conflict, in 2014, the Ukrainian government however confessed it was “a problem”.

‘According to an anonymous source from the Kyiv Municipal Recruitment Office registration and mobilization department, “in March-April 2014, 70 percent of reservists in Kyiv ignored the call to show up at their recruitment office”. The same source asserts that “80 percent ignored the second round, whereas 90 percent did not show up at the third round and 95 percent at the fourth one”. The website Global security.org asserts: “potential recruits dodged conscription officials” and “hundreds of Ukrainian men fled the country in order to escape enrollment”. According to the Ukrainian military in 2014, 85,792 people summoned during partial mobilizations didn’t report to their draft offices whereas 9,969 were proven to be illegally avoiding service.’<sup>63</sup>

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<sup>60</sup> YourNewsWire, ‘Young People Flee Ukraine to Evade Conscription,’ 6 May 2015, [URL](#)

<sup>61</sup> USSD HR Report 2017, Section 1.c, 20 April 2018, [URL](#)

<sup>62</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

<sup>63</sup> OFPRA, ‘Fact Finding Mission Report - Ukraine,’ May 2017, [URL](#)

## 7.5 Detection of evaders and deserters

7.5.1 The OFPRA Report 2017 noted that, 'WRI [War Resisters International] asserts that a database has been set up by the military to keep track of offenders.'<sup>64</sup>

7.5.2 The same report stated:

'In February 2015, a reporter for the French radio "Radio France Internationale (RFI)" observed that unlike previous waves of mobilization, recalcitrant research was rigorous: on the road, at border crossings and even the workplace. At one of the entry routes in the great city of Lviv, a police patrol, accompanied by an officer of the National Guard, systematically stopped the cars driven by young drivers in order to seek citizens fleeing to the mobilization. Vasyl Mazyar, member of the National Guard asserted he compared the driver's documents with a list of wanted persons.'<sup>65</sup>

7.5.3 The OFPRA Report 2017 noted that, 'In Kyiv, according to Ukrainian Week, as soon as a new round of mobilization goes on, district recruitment offices (DROs) get endless letters of denunciation from residents alleging that a neighbor is avoiding the draft, while this other "alkie/druggie/hooligan needs to get a call-up notice, go to war and straighten out his life or at least do penance".'<sup>66</sup>

7.5.4 In June 2015, Kharkiv Human Rights Protection Group (KHRPG) stated:

'There have been a worrying number of cases recently where young men of conscription age were effectively pulled off the street and taken to military recruitment offices. While the regional military commissar claims that all is in order, representatives of the Kharkiv Human Rights Group are adamant that this is in breach of the Constitution and can be viewed as abduction.

'Around 40 parents of conscripts are reported to have picketed the regional military recruitment office on June 24 [2015], and since. They complain that their sons were grabbed in the metro, on the street or in public places and taken to the military recruitment office where they are being held, without being allowed to see either their parents or lawyers.

'Yana Smelyanska from the Kharkiv Human Rights Group, for example, is trying to help a mother from Alchevsk in the Luhansk oblast. Her son has finished technical college and had arrived, together with his mother, in Kharkiv to take an exam when he was taken away by plain-clothed men. They had to scour all police stations and recruitment officers to find out where the young man is being held. And held without any justification since he is registered in Luhansk, and cannot be called up in the Kharkiv oblast.

'Yury Kalhushkin, Deputy Regional Commissar asserts that they are behaving in accordance with the law on military service. This states that young men of conscription age must themselves appear at the military

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<sup>64</sup> OFPRA, 'Fact Finding Mission Report - Ukraine,' May 2017, [URL](#)

<sup>65</sup> OFPRA, 'Fact Finding Mission Report - Ukraine,' May 2017, [URL](#)

<sup>66</sup> OFPRA, 'Fact Finding Mission Report - Ukraine,' May 2017, [URL](#)

recruitment office within 10 days of the President's decree coming into force, which means April 1. He also claims that only those who live too far away are presently being held at the collection point.<sup>67</sup>

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## 7.6 Penalties for draft evasion and desertion

### 7.6.1 Quoting various sources, the OFPRA Report 2017 stated:

'According to the White Book [a document published by law to inform the public about the activities of the armed forces and the defence policy of the state] 2014 of the Ministry of Defense of Ukraine, 8,490 soldiers were prosecuted for evasion of military service. 2,287 criminal investigations were launched in appliance of article 407 of the Criminal Code of Ukraine for "unauthorized abandonment of a military unit"; 4,880 soldiers were prosecuted for "desertion", according to article 408 of the same code, and another 1,323, came under investigations in appliance of article 409, for "evasion of military Service by selfmutilation or other means". [...]

'On 17 April 2015, according to the Chief Military Prosecutor of Ukraine 7,560 criminal investigations were launched into crimes committed by the Ukrainian soldiers since the beginning of the year. Among these figures, 1,964 criminal proceedings were conducted under article 407 (absence without leave from a military unit or place of service), 948 under article 408 (desertion) and 107 under article 409 (evasion from military service) of the Criminal Code of Ukraine. [...]

'In 2016, several [...] criminal investigations were also launched concerning supposed draft evaders. Among them, a man, declared liable and fit for the military service, was sentenced to a deprivation of liberty for declining military draft under mobilization in a written statement in his application to the military commissar of Gorodishchenskyi district military commissariat (DMC). However, according to the Ukrainian Law Firm Ilyashev & Partners, "in each concrete case the court defines the degree of the person's guilt under the actual circumstances and, if the person cooperates with the investigation authorities, the court applies more subtle type of punishment without isolation of a person from society".<sup>68</sup>

### 7.6.2 The USSD HR Report 2017 noted:

'On June 1, a higher court overturned a July 2016 appeals court decision reversing the May 2016 conviction of Ivano-Frankivsk blogger Ruslan Kotsaba. Kotsaba had been sentenced to three-and-a-half years in prison on charges that he had impeded the work of the armed forces with his calls to ignore the military draft. Authorities arrested Kotsaba in 2015, and human rights groups deemed him a political prisoner. At year's end Kotsaba was not in detention. According to Kotsaba's defense lawyer, the July 2016 decision was overturned to postpone their planned appeal to the European Court of Human Rights (ECHR).<sup>69</sup>

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<sup>67</sup> KHRPG, 'Outrage as young men grabbed [...]', June 2015, [URL](#)

<sup>68</sup> OFPRA, 'Fact Finding Mission Report - Ukraine,' May 2017, [URL](#)

<sup>69</sup> USSD HR Report 2017, Section 1.c, 20 April 2018, [URL](#)

7.6.3 For further information about punishments for draft evaders, see the September 2016 letter from the Foreign & Commonwealth Office at [Annex A](#).  
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## 7.7 Prison conditions

7.7.1 For information about prison conditions for draft evaders, see the September 2016 letter from the Foreign & Commonwealth Office at [Annex A](#). See also the Country Policy and Information Note on [Ukraine: Prison conditions](#).  
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# Annex A



## Foreign & Commonwealth Office

20 September 2016

RE: Ukraine – Draft Evasion

Information has been gathered from the Ukrainian Ombudsman's Office, Amnesty International and the Ministry of Justice and Ministry of Defence regarding prison conditions in Ukraine and punishment for draft evaders.

The Legal Department of the Ukrainian Ministry of Defence (MoD) have informed us that the punishment for avoidance of conscription for active military service shall be punishable by 'restraint of liberty for a term of up to three years'. Avoidance of mobilisation shall be punishable by 'imprisonment for a term of two to five years'. Avoidance of military training, verification of skills, or special assemblies by a person eligible for military service shall be punishable by a fine of 'up to 70 tax-free minimum incomes, or arrest for a term of up to six months'. The Ukrainian MoD have no information about persons previously convicted under Article 336 of the Criminal Code of Ukraine (Avoidance of Mobilisation) being mobilised during any of the mobilisation campaigns of 2014-16.<sup>70</sup>

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<sup>70</sup> Information was obtained from the Ukrainian Ministry of Defence. Further details can be found at [www.mil.gov.ua](http://www.mil.gov.ua).



According to various media sources (including [www.segodnya.ua](http://www.segodnya.ua) and [www.lb.ua](http://www.lb.ua)), there are currently hundreds of cases opened in Ukraine for draft evasion. In practice (according to the Registry of Court Decisions), 77 guilty verdicts were issued by courts as of February 2016. The majority of these were immediately released on probation. At the end of 2015 there was a case of one person in Zakarpattia region who was given 2 years in prison for draft evasion. However, this verdict was postponed and has not come into force yet due to the health conditions of this man.<sup>71</sup>

With regards to current prison conditions in Ukraine, I can confirm that information found in the Country Information Guidance on [www.gov.uk](http://www.gov.uk) is up to date and corresponds to the current state of affairs concerning prison conditions in Ukraine. However, the following points should be noted.

There are no separate military prisons in Ukraine. Sentenced draft evaders will be placed in general or civic prisons. All the prisons and correctional facilities in Ukraine have different levels of security and living conditions. Such living conditions usually depend upon the crime for which the individual was sentenced. Many of the prison and pre-trial detention centres are based in old buildings which sometimes do not have adequate sanitary facilities or ventilation. Overcrowding is a problem in Ukrainian prisons.

The most common complaints received from those detained or imprisoned are:

- Lack of proper access to medical care
- Being held in a cell with someone who has TB
- Lack of light, showers and adequate food
- Lack of open air activities
- Lack of access to drinking water
- Lack of tables, chairs, and other basic furniture in cells
- Cells not being equipped with emergency buttons, which poses a threat of untimely or inadequate reaction to possible incidents among those held in the cells.<sup>72</sup>

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<sup>71</sup> Further information on the information sourced from the Registry of Court Decisions can be found at [www.reyestr.court.gov.ua](http://www.reyestr.court.gov.ua) or from the website of the Zakarpattia Regional State Administration.

<sup>72</sup> Information from the above two paragraphs can be found on the websites of the State Penitentiary Service of Ukraine, the Ministry of Justice of Ukraine and the Office of the Ukrainian Ombudsman.



Each pre-trial detention centre and prison has special medical departments that can provide medical assistance. Any healthcare that is not available in prisons (e.g. complicated surgery) will be provided by regular hospitals under the jurisdiction of the Ukrainian Ministry of Health. Each prison has a library where books and newspapers are available. Relatives can also bring or send books and newspapers to prisoners. Most of the cells have radio units, some have small televisions. If the cell does not have a television, it can also be brought in by relatives. Three hot meals are provided per day. Additional food can also be bought from a prison shop. Prisoners cannot possess and use mobile phones, but are allowed to make phone calls from telephones within the prison.<sup>73</sup>

Overall, conditions in Ukrainian prisons do not meet European standards. Conditions in certain prisons can be considered to violate human rights. At the same time, they do not pose a direct threat to life. Following reforms of the penitentiary system in Ukraine in 2014, conditions in some prisons and correctional facilities have already been improved and Ukraine plans to implement further reforms to bring conditions more in line with European standards.<sup>74</sup>

There have been several changes and improvements in prison conditions in Ukraine since 2006. For example, in 2009, social and psychological services were established in prisons in order to assist with prisoners' adaptation to prison life and subsequent re-integration. Religious services and visits by priests to prisons have become very popular.<sup>75</sup>

Fewer cases of torture and mistreatment have been recorded by human rights organisations since 2012.<sup>76</sup> In addition, the Supreme Rada of Ukraine transferred the functions of the key monitor of the 'National Prevention Mechanism' to the office

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<sup>73</sup> This information can be found on the British Embassy's website, which contains an information pack for British Prisoners in Ukraine (<https://www.gov.uk/government/publications/ukraine-prisoner-pack>).

<sup>74</sup> The source of this information was the reports produced by the office of the Ombudsman. Details of the website can be found in the main body of the letter.

<sup>75</sup> This information can be found on the British Embassy's website which contains generic information for British nationals in detention/prison about the legal and prison system in Ukraine.

<sup>76</sup> This information was received from Amnesty and the Information Centre for Human Rights

of the Ukrainian Ombudsman. Since 2012, within the framework of this mechanism, Valeriya Lutskova, Ukrainian Ombudswoman, and her representatives have conducted inspections of more than 300 prisons and correctional facilities across Ukraine. Information can be found on the official website of the Ombudsman: <http://www.ombudsman.gov.ua/en/page/npm/>.

In 2014, Ukraine launched further reforms of the penitentiary service in Ukraine. The EU and the Council of Europe provided more than €10,000 to Ukraine to assist with these reforms, in particular to bring procedures and practices in prisons in line with European standards and to support the improvement of prison inspection and handling of prison complaints.

With support from the Ukrainian government, and with recommendations from the Council of Europe, the Ministry of Justice of Ukraine along with the State Penitentiary Service have improved the conditions in some prisons and have succeeded in reducing the number of prisoners who serve their sentence within state institutions. Many individuals are now placed under house arrest rather than in pre-trial detention centres. A new mechanism for probation was also introduced in 2015. In addition to this, the Ministry of Justice of Ukraine plans to reduce the number of prisons and detention centres in Ukraine by half and to update and improve aging remand buildings.<sup>77</sup>

This letter has been compiled by staff of the British Embassy in Kyiv entirely from information obtained from the sources indicated. The letter does not reflect the opinions of the author(s) nor any policy of the Foreign and Commonwealth. The author(s) have compiled this letter in response to a request from the Home Office and any further enquiries regarding its contents should be directed to the Home Office.

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<sup>77</sup> This information was sourced from the websites of the Council of Europe and the Ministry of Justice of Ukraine.

# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

## Legal context

### Conscription

- Numbers of conscripts
- Length of service
- Mobilisation
- Call-up
- Eligibility, incl. for women

### Exemptions and alternatives

- Conscientious objection
- Recognised religious groups
- Court cases, convictions and sentences

### Conditions of service

- Type of service
- Likely areas of posting
- (Mis)treatment
- Avenues of redress and monitoring

### Draft evasion and desertion

- Definition
- Numbers of evaders and deserters
- Detection of evaders and deserters and likelihood of being traced
- Penalties for draft evasion and desertion, including court cases, convictions and sentences

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# Version control

## Clearance

Below is information on when this note was cleared:

- version **5.0**
- valid from **25 October 2018**

## Changes from last version of this note

Country information updated. Assessment updated to take account of recent caselaw, as well as updated country information.

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