



Home Office

Country Information and Guidance

Ukraine: Military service

Version 1.0

November 2015

Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained within this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

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 make recommendations to him about the content of the Home Office’s COI material. 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.

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Guidance

Updated: 24 November 2015

1. Introduction

1.1 Basis of Claim

1.1.1 Fear of harm or mistreatment by the state because of:

- (a) the treatment and/or conditions likely to be faced by person during compulsory military service duties; and/or
- (b) the penalties likely to be faced by the person's refusal to undertake, or their desertion from, military service duties.

1.2 Other Points to Note

- 1.2.1 Where a claim falls to be refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as Ukraine is listed as a designated state.

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2. Consideration of Issues

2.1 Is the person's account credible?

- 2.1.1 For further information on assessing credibility, see sections 4 and 5 of 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 applications 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 Does the requirement to undertake military service put the person at risk of serious harm or mistreatment?

- 2.2.1 Conscription was reintroduced in May 2014 (see [Mobilisation](#)). Military service is compulsory for those aged between 18 and 60 years for regular soldiers and 18 to 65 years for officers. The period of national service is 18 months (see [Eligibility](#)). There are numerous exemptions including for conscientious objection on religious grounds for members of religious organizations registered in Ukraine (see [Exemptions](#)).
- 2.2.2 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](#) (paras 167-174) and confirmed by the House of Lords in the case of [Sepet & Another v. SSHD \[2003\] UKHL 15](#).

- 2.2.3 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.

- 2.2.4 For further information on this, see the [Asylum Instruction on Military Service and Conscientious Objection](#)

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2.3 [Would military service involve acts, with which the person may be associated, which are contrary to the basic rules of human conduct?](#)

- 2.3.1 ‘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’).

- 2.3.2 The country guidance case of [PS \(prison conditions; military service\) Ukraine CG \[2006\] UKAIT 00016 \(22 February 2006\)](#) found that there is no question of persons in the military being required [currently] to perform acts contrary to international law (para 112 (1)).

- 2.3.3 There is no evidence that the situation has changed. Those performing military service in Ukraine would not be required to engage in any military acts which are contrary to the basic rules of human conduct.

- 2.3.4 For further guidance on assessing risk, see section 6 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.4 [Are the conditions of military service in Ukraine so harsh as to amount to persecution?](#)

- 2.4.1 The country guidance case of [PS](#) found that the conditions of military service although far from ideal (with hazing - ill-treatment of young conscripts at the hands of senior soldiers - remaining a serious problem) are not generally such as to themselves give rise to a real risk of treatment contrary to Article 3 (para 112(2)). There is no evidence to indicate that the situation has changed since that determination was handed down.

- 2.4.2 Therefore, in general, the conditions and/or treatment likely to be faced by a person required to undertake compulsory military service would not be so harsh as to amount to persecution.

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2.5 Is the punishment for draft evasion or desertion disproportionately harsh or severe?

- 2.5.1 Evasion of military service is punishable in law by up to 3 years' imprisonment. However, in practice, in most cases the courts issue fines or suspended sentences (see [Penalties for draft evasion](#)). Such penalties are neither disproportionate nor excessive. The FCO reported in November 2015 that there had been only a few cases (two in July 2015) when draft evaders were sentenced to two years' imprisonment in Ukraine.
- 2.5.2 The law provides for conscientious objection and alternative service on religious grounds for members of religious organizations registered in Ukraine. Conscientious objection is not available on any other grounds (see [Exemptions](#)).
- 2.5.3 Therefore it is unlikely that in the majority of cases, 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.

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2.6 Are those at risk able to seek effective protection?

- 2.6.1 As the person's fear is of persecution or serious harm at the hands of the state they would not be able to avail themselves of the protection of the authorities. However, the person is unlikely to be at risk of persecution or serious harm and unlikely to need to avail themselves of the protection of the authorities.
- 2.6.2 For further guidance on assessing the availability or not of state protection, see section 8.1 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.7 Are those at risk able to internally relocate?

- 2.7.1 As the person's fear is of persecution or serious harm at the hands of the state they would not be able to relocate to escape that risk.
- 2.7.2 For further guidance on considering internal relocation, see section 8.2 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.8 If refused, is the claim certifiable as 'clearly unfounded'?

- 2.8.1 Where a claim falls to be refused, it is likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002. This is because the treatment likely to be faced by person during compulsory military service duties and/or the penalties likely to be faced by the person's refusal to undertake, or their desertion from, military service duties does not, even when taken at its highest, amount to persecution or serious harm.

- 2.8.2 For further information on certification, see the [Appeals Instruction on 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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3. Policy summary

- 3.1.1 **Compulsory military service of 18 months was reintroduced in Ukraine in May 2014. There are however numerous exemptions including for conscientious objection on religious grounds for members of religious organizations registered in Ukraine**
- 3.1.2 **It is legitimate for countries to require their citizens to perform compulsory military service and punishment for failing to complete it does not, in itself, constitute persecution.**
- 3.1.3 **Military service in Ukraine would not involve acts, with which the person may be associated, which are contrary to the basic rules of human conduct; the conditions of military service are not so harsh as to amount to persecution; nor is the punishment for draft evasion or desertion is disproportionately harsh or severe.**
- 3.1.4 **If a claim is refused it is likely to be certifiable as clearly unfounded.**

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Country Information

Updated 24 November 2015

4. Military Service

4.1 Background

4.1.1 See country information and guidance on [Ukraine: Crimea, Donetsk and Luhansk](#).

4.2 Mobilisation

4.2.1 The BBC announced the following on 2 May 2014: 'Ukraine's acting President Olexander Turchynov has reinstated military conscription to deal with deteriorating security in the east of the country...Kiev scrapped compulsory military service for young men in late 2013 under a law introduced by then President Viktor Yanukovych.'¹

4.2.2 EuroMaidan Press, which is based in Germany and focuses on news and events relating to Ukraine, reported on 21 October 2014:

'Today [21/10/2014] the Verkhovna Rada [Parliament] passed the law "regarding partial mobilization," which affirms the according order of the President. The country awaits the new stage of military mobilization. The first and second stages took place in spring of 2014... The majority of the soldiers of the Armed Forces and National Guard have been in the ATO [anti-terrorist operation] zone for several months, therefore rotation is necessary. Besides, it is important to increase security of the border, import fresh forces to territorial defense troops, reinforce military units and wartime provision units in the east of the country.

'Third stage of the first wave: those who have not served will not be summoned.

'The current stage of mobilization is carried out within the framework of the so-called "first wave," which presumes that the following are summoned to the army: volunteers; reserve officers and sergeants that served in the army or other force structures, who have military specialties that are currently in demand; as well as reserve regular soldiers with wartime experience.

'We remind you that there may be four mobilization waves overall. In case of escalation after the first (current) wave of mobilization, further stages may be announced.

'The second wave of partial mobilization: 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. As to reserve officers who have not served in the army that graduated from military departments of civilian universities, according to the speaker of the NSDC [National Security and Defence Council] information

¹ BBC. 'Ukraine reinstates conscription as crisis deepens,' dated 2 May 2014. <http://www.bbc.co.uk/news/world-europe-27247428> Date accessed: 21 August 2015.

center Andriy Lysenko, “they should not be summoned, as Ukraine has about 20 thousand reserve officers with real military and peacekeeping experience.”

‘The third wave: 18-year-old soldiers are mobilized, women who may serve (field doctors, nurses, technical specialists); as well as those who have not served but have no “white ticket.”

‘The fourth (very unlikely – only possible if ardent war has been underway for a long time): full mobilization, all those capable of holding weapons in their hands join the army...

‘I emphasize that during partial mobilization those who have already undergone military service are summoned to serve – reserve officers and people with military experience. And only those that have specialties that individual units need. We do not summon 18-year-old boys [to the combat area]. Also we will not summon breadwinners from low-income families,’ added the NSDC secretary.’²

4.2.3 Sputnik International published the following on 15 January 2015: ‘The Ukrainian parliament on Thursday approved a presidential decree to hold three partial military mobilizations in 2015.

“‘To declare and to conduct in 2015 three stages of partial mobilization within 210 days from the date of entry into force of this decree,” the document said. According to the decree the mobilization will be conducted in Kiev and all the regions of Ukraine in proportion to their population.

‘Kiev earlier announced plans to begin the first wave of mobilization on January 20, the second in April, and the third in June. During the first wave, some 50,000 people will be called to military service. The three waves planned in 2015 could bring an additional 104,000 soldiers into the military's ranks, bringing the number of army personnel to 250,000 soldiers...

‘The decree also stipulates a demobilization from March 18 to May 1 of those who were called up for military service in 2014's first wave of partial mobilization on March 17.

‘In 2014, Kiev held three waves of military mobilization for its special operation in the Donbas. The exact number of people called up for military service was never officially disclosed, but it was reported that in 2014, the number of troops in Ukraine’s armed forces increased to 232,000 from 130,000 the year before.’³

4.2.4 IB Times reported the following in June 2015:

‘The Ukrainian government began mobilizing its sixth and final wave of troops for active duty in the East Ukraine conflict on Thursday [18 June

² EuroMaidan Press. ‘Partial mobilisation: why is it necessary and who should await summons,’ dated 23 July 2014. <http://euromaidanpress.com/2014/07/23/partial-mobilization-why-is-it-necessary-and-who-should-await-summons/> Date accessed: 19 August 2015

³ Sputnik International. ‘Ukrainian Parliament approves three waves of military mobilisation for 2015,’ dated 15 January 2015 (updated 16 January 2015). <http://sputniknews.com/europe/20150115/1016921774.html> Date accessed: 19 August 2015.

2015]. While the exact total of how many people will be called upon is not known yet, the chief military prosecutor of Ukraine, Anatoliy Matios, said in January he expected the figure to be around 50,000. Kiev's armed forces are looking for scouts, tankers, gunners, signalmen, engineers, mechanics and drivers.⁴

4.2.5 UNHCR's January 2015 position paper stated that:

'As the conflict in the East intensified the Government in Kyiv instituted military mobilization in order to bring additional qualified personnel into the army. Persons targeted for mobilization included persons with past experience as paratroopers, grenade launchers, in artillery, logistical support, and other personnel (including physicians, electricians, mechanics and drivers). The President issued three decrees on "partial mobilization" in 2014 dated 17 March, 6 May and 22 July respectively. In each instance, the partial mobilization was conducted over a period of 45 days. Regular military conscription of 18–25 year-old men was being carried out between May-July and October-November 2014. Under Ukrainian law, conscripts serve for twelve months. Three waves of mobilization are planned in 2015, according to a statement by the Secretary of the Ukrainian National Security and Defence Council.⁵

4.2.6 The UNHCR published the following in September 2015:

'By the time of writing there had not been any reports of a general mobilization of men in the NGCAs [non-Government-controlled areas]. However, in mid-August 2015 members of the local population (mainly men with former military backgrounds) started to receive notices with requests to attend the military commissariat for registration only. According to information obtained through monitoring in NGCAs, the mobilization is currently on a voluntary basis. Concerns have been expressed about reports of children performing military duties in NGCAs, including guarding checkpoints. In the LPR [Luhansk Peoples' Republic] young men under the age of 18 have reportedly joined the military because they saw it as the only means to obtain an income.⁶

4.2.7 In an email of 17 November 2015 from the Foreign and Commonwealth Office to the Home Office, it was stated that:

⁴ IB Times. 'Ukrainian Government Begins Sixth Wave Of Military Mobilization For Service In East Ukraine War,' dated 18 June 2015.

<http://www.ibtimes.com/ukrainian-government-begins-sixth-wave-military-mobilization-service-east-ukraine-war-1973269> Date accessed: 18 August 2015.

⁵ UN High Commissioner for Refugees (UNHCR), International Protection Considerations Related to the Developments in Ukraine – Update II, 15 January 2015. Para 19 -21. Available at: <http://www.refworld.org/docid/54c639474.html>. Date accessed: 21 August 2015

⁶ UN High Commissioner for Refugees (UNHCR). 'International Protection Considerations Related to the Developments in Ukraine – Update III,' dated 24 September 2015. Available at: <http://www.refworld.org/docid/56017e034.html> Date accessed: 9 October 2015.

'Wave of obligatory mobilization of those men, who serve in the army (various categories up to the age of 55) has been stopped in Ukraine so far. Only conscripts who have the obligation by the Ukrainian law to serve in the army for 1,5 years are currently mobilized.'⁷

4.3 Eligibility

4.3.1 On 1 May 2014 the acting President of Ukraine signed a decree reinstating military conscription for males between the ages of 18 and 25 (who do not qualify for exemption).⁸

4.3.2 EuroMaidan Press reported the following on 23 July 2014:

'Within the framework of the current mobilization stage [the third stage of "partial mobilization" in 2014], the MPs today increased the age limit of those who are obliged to serve in reserve. According to the amendment made, the age limit for regular soldiers, sergeants and starshyna is increased from 50 to 60 years of age, junior and senior officers – from 55 to 65 years.

'As MP, General of the Army, Olexandr Kuzmuk explained..., the increase of service age is necessary to support the third mobilization stage for provision units. In particular, due to the demand for doctors, rear soldiers, electricity specialists, renovation workers, mechanics, drivers.'⁹

4.3.3 According to Global Security recruits serve in the military for 1.5 years.¹⁰

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5. Exemptions

5.1.1 Article 18 of the Law of Ukraine on Military Duty and Military Service (1992) addressed exemptions from conscription:

'Article 18: An Exemption from Conscription to Regular Military Service

'1. The following citizens of Ukraine are exempt from conscription to regular military service in peacetime:

- Those recognised 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

⁷ The Foreign and Commonwealth Office. Email to the Home Office, dated 17 November 2015. Available on request.

⁸ VOA News. 'Ukraine Reinstates Conscription as Security Deteriorates in Eastern Region', dated 1 May 2014 <http://www.voanews.com/content/russian-fm-calls-for-dialogue-in-ukraine/1905082.html> Date accessed: 20 August 2015.

⁹ EuroMaidan Press. 'Partial mobilisation: why is it necessary and who should await summons,' dated 23 July 2014. <http://euromaidanpress.com/2014/07/23/partial-mobilization-why-is-it-necessary-and-who-should-await-summons/> Date accessed: 19 August 2015

¹⁰ GlobalSecurity.Org. Ukraine. 'Military Personnel' (page last modified 26 June 2015). <http://www.globalsecurity.org/military/world/ukraine/personnel.htm> Date accessed: 20 August 2015.

during training for persons liable to military service. Conscripts, who have the right to an exemption from conscription on these grounds, may renounce this right;

- 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).¹¹

5.1.2 The Law of Ukraine on Military Duty and Military Service was amended since the publication of the above version. In July 2015 Ukraine's parliament passed a law that exempted the following from conscription: 'students, postgraduates and doctoral students who are studying in full-time education; scientists, scientific and academic staff of higher education institutions, research institutions and organizations with academic rank and/or academic degree; teaching staff of secondary schools.' An earlier amendment in April 2014 had reportedly exempted students, postgraduates and doctoral candidates from having to serve in the military.¹²

5.1.3 The EuroMaidan Press published the following on 23 July 2014:

'During mobilization, those who are not subject to mobilization are those who have been booked by the state government bodies during the mobilization period; those who have been deemed unacceptable for military service due to health reasons on a period of up to 6 months; men who have five and more children under the age of 16; women who have children of up to 16 years of age; those who are engaged in providing for someone who has nobody else to turn to. Members of the Ukrainian Parliament cannot be mobilized either.'¹³ The Kyiv Post noted that priests are also exempt from being drafted.¹⁴

5.2 Conscientious objection

5.2.1 The UN High Commissioner for Refugees noted the following on 15 January 2015: 'The law in Ukraine provides for conscientious objection and alternative service on religious grounds for members of religious

¹¹ Geneva Centre for the Democratic Control of Armed Forces (DCAF). Fluri, P, Kozeil, M and Yermolaiev, A (eds.) 2013, 'The Security Sector Legislation of Ukraine,' Center for Army, Conversion and Disarmament Studies, p.173 <http://www.dcaf.ch/Publications/The-Security-Sector-Legislation-of-Ukraine2> Date accessed: 20 August 2015.

¹² UNIAN Information Agency. 'Rada exempts professors, researchers from conscription during mobilization,' dated 2 July 2015. <http://www.unian.info/politics/1095919-rada-exempts-professors-researchers-from-conscription-during-mobilization.html> Date accessed: 20 August 2015.

¹³ EuroMaidan Press. 'Partial mobilisation: why is it necessary and who should await summons,' dated 23 July 2014. <http://euromaidanpress.com/2014/07/23/partial-mobilization-why-is-it-necessary-and-who-should-await-summons/> Date accessed: 19 August 2015

¹⁴ Kyiv Post. 'Not everyone answering Ukraine's call to mobilise for war,' dated 9 February 2015 <http://www.kyivpost.com/content/kyiv-post-plus/not-everyone-answering-ukraines-call-to-mobilize-for-war-380055.html> Date accessed: 19 August 2015

organizations registered in Ukraine. Conscientious objection is not available on any other grounds.¹⁵

5.2.2 UNHCR published the following in September 2015:

'Ukraine's legal framework on regular conscription provides for conscientious objection and alternative service on religious grounds for members of religious organizations registered in Ukraine, subject to possible limitations in times of civil or military emergency. However, there is no clear provision on alternative service arrangements for individuals drafted through emergency mobilization, creating risks of enlistment contrary to a person's religious beliefs. The religious beliefs of conscientious objectors summoned in the course of the waves of emergency mobilization in the context of the current conflict are reportedly often ignored by conscription offices.'¹⁶

5.3 Women

5.3.1 Kyiv Post reported the following on 9 February 2015: 'Vladyslav Seleznev, spokesman of General Staff, said some 100 women are already serving in the war zone, but not on the front lines. Rather they are helping with medical and logistical work. Most of these women volunteered.'¹⁷

5.3.2 Newsweek reported as follows on 2 April 2015: '... Kiev is unwilling to scale back its military in response to its economic problems as it is now prepared to extend the bracket for the nation-wide call to military service towards female citizens in a bid to reinforce its national security services and deliver on its plans to mobilise and enlist 200,000 Ukrainians in its arm [sic] forces by the end of 2015.

'According to Seleznev [spokesperson for the armed forces' high command], throughout the mobilisation period which began last month and will continue until April, Ukrainian women between the ages of 20 and 50 could be called up to serve as officers, while others aged between 20 and 40, could be called up to assist the military in support positions.

'The spokesperson for the armed forces told press the personal records of female citizens will be screened and potential candidates for military services will be called up, based on evidence for previous desire to serve in the military, indications that they are of the right health to for army service or at the very least that their profession has given them some "army-relevant education".

¹⁵ UN High Commissioner for Refugees 2015, 'International Protection Considerations Related to the Developments in Ukraine - Update II,' dated 15 January 2015, p.9, section 21
<http://www.refworld.org/docid/54c639474.html> Date accessed: 20 August 2015

¹⁶ UN High Commissioner for Refugees (UNHCR). 'International Protection Considerations Related to the Developments in Ukraine – Update III,' dated 24 September 2015. Available at:
<http://www.refworld.org/docid/56017e034.html> Date accessed: 9 October 2015.

¹⁷ Kyiv Post. 'Not everyone answering Ukraine's call to mobilise for war,' dated 9 February 2015
<http://www.kyivpost.com/content/kyiv-post-plus/not-everyone-answering-ukraines-call-to-mobilize-for-war-380055.html> Date accessed: 19 August 2015

‘Seleznev did not elaborate on the specifics of the criteria, however he did indicate that however many women are successfully recruited into the Ukrainian armed forces, the "majority" of the [sic] will be in charge of medical duties, communications or logistical assistance, as opposed to regular combat duty...

‘According to Seleznev, near the end of 2014 as an emergency provision around 100 women were recruited for army service.’¹⁸

See section on [Mobilisation](#) for information about women being called up as part of the ‘third wave’ of conscription.

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6. Conditions for those eligible for conscription

6.1.1 EuroMaidan Press published the following in July 2014:

‘According to the law “regarding mobilization preparation and mobilization” those who are obliged to serve and who received the summons from the military commissariat, have to arrive at the point at the time noted in the summons. Those who have been summoned retain their jobs, their titles and the average salary at the business or organization regardless of the form of property.

‘All those who are accounted for in military registries, starting the moment of declaration of full mobilization (we remind you that now partial mobilization is underway), are prohibited from changing their place of residence without the approval of a military commissariat official... Informing servicemen listed for training is done exclusively through summons that ha[s] an established template, personally, and not by phone.’¹⁹

6.1.2 Global Security published the following information, which was modified in June 2015:

‘Citizens of Ukraine military of conscription age traveling abroad must show a document issued by a military commissariat. Defense Minister Stepan Poltorak made the statement on 31 January 2015. "All the recruits that were called into the army during mobilization, based on the provisions, should provide the document (issued by a military commissariat -ed.) for traveling abroad. It's like an auxiliary measure to determine the reason for traveling abroad and so on," he said. According to the official, the concept was developed jointly by Ministry of Defense of Ukraine and the General Staff.’²⁰

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¹⁸ Newsweek. ‘Ukraine to call up women over 20 for armed forces,’ dated 2 April 2015. <http://europe.newsweek.com/ukraine-armed-forces-set-call-female-citizens-aged-20-50-new-recruitment-cycle-304276> Date accessed: 20 August 2015.

¹⁹ EuroMaidan Press. ‘Partial mobilisation: why is it necessary and who should await summons,’ dated 23 July 2014. <http://euromaidanpress.com/2014/07/23/partial-mobilization-why-is-it-necessary-and-who-should-await-summons/> Date accessed: 19 August 2015

²⁰ GlobalSecurity.Org. Ukraine. ‘Military Personnel’ (page last modified 26 June 2015). <http://www.globalsecurity.org/military/world/ukraine/personnel.htm> Date accessed: 20 August 2015.

7. Draft evasion and desertion

7.1.1 The UNHCR published the following in September 2015:

'Resistance to conscription has reportedly been growing due to a number of factors, including objections to participation in a civil conflict where war crimes against prisoners held by both sides have been reported, and where killings of fellow countrymen are likely to occur. Others report fears of being sent to fight with inadequate training and equipment. IDPs have also voiced concerns about the possibility of being called for military service in their regions of origin, where they are likely to encounter their former neighbours, and the fear that fighting for the Ukrainian army will effectively prevent them from returning to their homes one day, as they would be subjected to social exclusion. Fighting in areas of origin may also expose remaining family members to security risks.

'...There are ... reports of men leaving NGCAs through the Russian Federation or by trying to avoid official border checkpoints, for fear of being mobilized.'²¹

7.1.2 The Kyiv Post reported the following in February 2015: '...the number of volunteers to fight in the war has been steadily diminishing, while the number of people who have tried to evade draft is on the rise, according to the government's data...

'Russia hailed the trend, and even lifted the term of maximum legal stay for Ukrainians on its territory. "Many people are avoiding mobilization (in Ukraine), trying to come to us and stay out for some time," Russian president Vladimir Putin said on Jan. 26 [2015]. "They are doing the right thing."

'Russian propaganda played an important role in sparking anti-army moods in the country, Mykhailo Bondar, lawmaker from People's Front and a former commander of a unit with the Kulchitsky Battalion of the National Guard told the Kyiv Post...

'However, the threat of jail sentences has not stopped people from hiding. Oleksandr Halkin, head of the mobilization department Pinvinch in Rivne Oblast told a local newspaper on Feb. 7 [2015] that his office was only able to meet the draft plan by 75 percent. "There are more than 4,000 people who are currently being searched. More than 3,000 reservists do not reside at their registration address, and finding them is impossible. More than 1,000 people who were served notices, simply did not show up at the draft offices," Halkin said.

'Amid general war fatigue the rumors about government plans to limit foreign travel for people who fall in the age range for mobilization, as well as plans to call on some women for military service, calls to invent legal ways to avoid drafts have been on the rise. This would also cut corruption in the

²¹ UN High Commissioner for Refugees (UNHCR). 'International Protection Considerations Related to the Developments in Ukraine – Update III,' dated 24 September 2015. Available at: <http://www.refworld.org/docid/56017e034.html> Date accessed: 9 October 2015.

recruitment system. But so far, the government has only adopted incentives for draftees.

'On Jan. 28 [2015] the Cabinet of Ministers adopted a resolution allocating double pay for soldiers fighting in the east, to Hr 4,600 per month, according to Seleznev. Also, additional Hr 1,000 will be paid for every day of participation in fights. It also introduced a set of bonuses paid to military units and individual soldiers for "successful fulfillment of military tasks," such as destroying the enemy war machines. Soldiers can get Hr 121,000 for downing an enemy plane, or Hr 48,000 for a tank. The money is to come from a special fund of the defense ministry.

'But it's not clear how much money the fund has and how the money will be allocated. Volunteer David Arakhamia, who was invited to conduct reforms at the defense ministry, said that if the system of benefits had been applied in January, that month alone the ministry would have to pay Hr 14 million for destroyed war machines.

'Seleznev from General Staff told the Kyiv Post the system of financial benefits would be introduced "in the nearest days." Seleznev also said that about 60 percent of people who are supposed to be drafted in the current wave of mobilization, have already been sent to training bases. "They are now in training centers where they will undergo 26 days of preparations. Then two weeks of combat teamwork trainings. And then if they pass combat test they will go to ATO [anti-terrorist operation] zone," Seleznev said.'²²

7.1.3 The Washington Post noted in April 2015 that about 13,000 people called to join the army have 'gone AWOL' and a journalist who spoke out publicly against the draft was charged with treason.²³

7.1.4 The Washington Post reported as follows in April 2015: 'Though penalties for draft dodging are steep, the process is fairly straightforward. Summons are sent to the city where one is registered — normally a birthplace or place of work. But if one has moved or has a job that is not officially registered, it is easy to hide in plain sight...'²⁴

7.1.5 RT Network published the following in January 2015:

'... [The Ukrainian president's adviser, Yury Biryukov] did cite preliminary draft statistics, showing evasion was primarily a problem in western Ukraine, traditionally a major source of anti-Russian sentiment. According to Biryukov's figures, 57 percent of Ivano-Frankovsk potential conscripts would

²² Kyiv Post. 'Not everyone answering Ukraine's call to mobilise for war,' dated 9 February 2015 <http://www.kyivpost.com/content/kyiv-post-plus/not-everyone-answering-ukraines-call-to-mobilize-for-war-380055.html> Date accessed: 19 August 2015

²³ Washington Post. 'Ukraine's military mobilization undermined by draft dodgers,' dated 25 April 2015. https://www.washingtonpost.com/world/europe/ukraines-military-mobilization-undermined-by-draft-dodgers/2015/04/25/fc3a5818-d236-11e4-8b1e-274d670aa9c9_story.html Date accessed: 20 August 2015.

²⁴ Washington Post. 'Ukraine's military mobilization undermined by draft dodgers,' dated 25 April 2015. https://www.washingtonpost.com/world/europe/ukraines-military-mobilization-undermined-by-draft-dodgers/2015/04/25/fc3a5818-d236-11e4-8b1e-274d670aa9c9_story.html Date accessed: 20 August 2015.

not show up at enlistment offices, while 37 percent fled Ukraine. He mentioned that local authorities in the Ternopol region were sabotaging the draft, refusing to help distribute notices. Nineteen percent of Volynskaya region men, bound to military service, cited religious motives for not joining the army. Previously not more than 0.7 percent would use this pretext... This one is the fourth wave of mobilization since Kiev launched a military operation against anti-government forces in eastern Ukraine.²⁵

7.1.6 Kyiv Post published the following in February 2015: 'Many residents of Ivano-Frankivsk, Ternopil, Poltava and Zakarpattia oblasts ignored the calls to mobilization centers or even left for seasonal works in Hungary, Romania or Russia. In Zakarpattia Oblast, only 410 out of 1,110 people who received draft notices came to mobilization centers, Oleg Lysenko, a representative of General Staff said recently.'²⁶

7.1.7 The Washington Post stated the following in April 2015: '...[the] region of Kharkiv... has the most abysmal turnout, with only about 17 percent of those receiving draft orders responding. Meanwhile Lviv, in the far west, reportedly boasts the highest response rate, with near full turnout.'²⁷

7.2 Penalties for draft evasion

7.2.1 Penalties for draft evasion, or a reservist's failure to report for duty following a call-up instruction, are contained in Articles 335, 336 and 337 of the Criminal Code,²⁸ a copy of which is at:

<http://www.refworld.org/docid/4c4573142.html>. These Articles state:

'Article 335. Avoidance of conscription for active military service

Avoidance of conscription for active military service, -

shall be punishable by restraint of liberty for a term up to three years.

Article 336. Avoidance of mobilization

Avoidance of mobilization, -

shall be punishable by imprisonment for a term two to five years.

Article 337. Avoidance of military registration or special assemblies

1. Avoidance of military registration by a person bound to military service after notification by an appropriate military commissariat, shall be

²⁵ RT Network. 'Potential conscripts evade draft, flee country amid escalation in E. Ukraine,' dated 31 January 2015. <http://www.rt.com/news/228131-draft-evasion-ukraine-military/> Date accessed: 19 August 2015.

²⁶ Kyiv Post. 'Not everyone answering Ukraine's call to mobilise for war,' dated 9 February 2015 <http://www.kyivpost.com/content/kyiv-post-plus/not-everyone-answering-ukraines-call-to-mobilize-for-war-380055.html> Date accessed: 19 August 2015

²⁷ Washington Post. 'Ukraine's military mobilization undermined by draft dodgers,' dated 25 April 2015. https://www.washingtonpost.com/world/europe/ukraines-military-mobilization-undermined-by-draft-dodgers/2015/04/25/fc3a5818-d236-11e4-8b1e-274d670aa9c9_story.html Date accessed: 20 August 2015.

²⁸ Ukraine: Criminal Code [Ukraine], 1 September 2001, available at: <http://www.refworld.org/docid/4c4573142.html> Date accessed: 20 August 2015.

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.

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.'

7.2.2 In an email of 17 November 2015 from the Foreign and Commonwealth Office to the Home Office, it was stated that:

'We don't have military prisons in Ukraine as such so far. Therefore, if a Ukrainian draft evader is convicted of draft evasion under Article 336 of the Ukrainian Criminal Code he would be sentenced by a court decision to imprisonment in a civilian prison.

'Article 336 of the Ukrainian Criminal Code is enforced, however there have been only few cases (two in July 2015) when the draft evaders were sentenced to two years of imprisonment in Ukraine. In many cases the courts have decided to put administrative penalties on the evaders.

'The conditions in Ukrainian prisons are still very poor, however some improvements have been made in recent years (e.g. libraries in prisons, a bit better health care services, sanitary facilities, etc.). Some civilian prisons tend to have sections for certain types of convicts: e.g. former judges, militia or military servicemen who committed serious crimes. Those military servicemen who commit disciplinary violations are usually sent to military guardrooms or disciplinary battalions for some time.

'Wave of obligatory mobilization of those men, who serve in the army (various categories up to the age of 55) has been stopped in Ukraine so far. Only conscripts who have the obligation by the Ukrainian law to serve in the army for 1,5 years are currently mobilized.'²⁹

7.2.3 In January 2015, RT stated: 'A little less than 7,500 Ukrainians are already facing criminal charges for evading military service, the country's Defence Ministry announced on Saturday.'³⁰ In September 2015, the UNHCR stated, 'Whilst conscription practices vary from region to region, the government is reported to have stepped up prosecution of those suspected of evading conscription and mobilization, with reports of coercive measures being used in certain areas.'³¹

7.2.4 Kyiv Post reported as follows in February 2015: 'As of Jan. 31 [2015], the military prosecution launched some 1,300 criminal cases to investigate draft

²⁹ The Foreign and Commonwealth Office. Email to the Home Office, dated 17 November 2015. Available on request.

³⁰ R T. 'Potential conscripts evade draft, flee country amid escalation in E. Ukraine,' dated 31 January 2015. <http://www.rt.com/news/228131-draft-evasion-ukraine-military/> Date accessed: 19 August 2015.

³¹ UN High Commissioner for Refugees (UNHCR). 'International Protection Considerations Related to the Developments in Ukraine – Update III,' dated 24 September 2015. Available at: <http://www.refworld.org/docid/56017e034.html> Date accessed: 9 October 2015.

evasion, and 160 people have already received court verdicts, said Ivan Rusnak, deputy defense minister. He added that in most cases the courts ordered fines or suspended sentences...³²

7.2.5 EuroMaidan Press reported the following in July 2014: ‘No-shows during full or partial mobilization are to face administrative [penalties] in the form of a fine between 85 and 119 UAH, for violating legislation regarding mobilization a fine of 17-51 UAH is presumed, for the intentional destruction of the military certificate – a fine of 17-51 UAH.’³³

7.2.6 The Interfax news agency reported on 19 August 2014 that ‘Ukrainian prosecutors are conducting over a thousand criminal inquiries into evasion of the military draft and mobilization ... Most of them are investigated under Article 336 of the Ukrainian Criminal Code (draft evasion).’³⁴

7.2.7 UNHCR’s January 2015 position paper stated that:

‘Draft evaders may be subject to a penalty ranging from administrative fine to a prison term of 2 to 5 years. According to the judicial registry, as of 8 December, 32 persons have reportedly been sentenced for evasion of conscription or mobilization in 2014 (compared to 0 in 2013). An analysis of some of these cases (16 cases) conducted in August was reported to have shown that all persons found guilty received administrative fines, community service or suspended sentences.’³⁵

7.3 Desertion

7.3.1 Global Security published the following information, which was last modified in June 2015:

‘Ukraine’s parliament passed a law 05 February 2015 which authorizes commanding officers to use physical force against army defectors. It comes as the latest military draft has seen a lack of enthusiasm on the part of potential soldiers. Ukraine’s parliament voted with 260 MPs in favor - only 226 votes were needed to pass the law. The new article 22(1) added to the charter regulating service in the armed forces of Ukraine states that commanders “have the right to personally use physical force, special means, and weapons when in combat” against soldiers who commit “criminal acts.”

‘Under criminal acts the law listed “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.” An

³² Kyiv Post. ‘Not everyone answering Ukraine’s call to mobilise for war,’ dated 9 February 2015 <http://www.kyivpost.com/content/kyiv-post-plus/not-everyone-answering-ukraines-call-to-mobilize-for-war-380055.html> Date accessed: 19 August 2015

³³ EuroMaidan Press. ‘Partial mobilization: why it is necessary and who should await summons,’ dated 23 July 2014 <http://euromaidanpress.com/2014/07/23/partial-mobilization-why-is-it-necessary-and-who-should-await-summons/> Date accessed: 19 August 2015.

³⁴ Interfax. ‘Over 1,000 criminal inquiries into Ukrainian draft evasion’, dated 19 August 2014 <http://www.interfax.com/newsinf.asp?id=529597> Date accessed: 20 August 2015.

³⁵ UN High Commissioner for Refugees (UNHCR), International Protection Considerations Related to the Developments in Ukraine – Update II, 15 January 2015. Para 19 -21. Available at: <http://www.refworld.org/docid/54c639474.html> Date accessed: 21 August 2015).

explanatory note to the document said that currently there are mass violations of military discipline, in particular, desertion from units and drinking alcohol, as well failure to execute commanders' orders.

'More than 10,000 cases of desertion had been registered in the Ukrainian Army since the outbreak of the Donbass war in April 2014, Ukrainian Vesti reported. In 2014 the army suffered heavy desertion and nearly 30 percent of the servicemen called up in the first wave of mobilization (March 17) abandoned their positions, Ukrainian President Petro Poroshenko said.'³⁶

- 7.3.2 The UN Office of the High Commissioner for Human Rights reported the following on 1 June 2015: 'On 17 April [2015], the Chief Military Prosecutor of Ukraine, who is responsible for investigating crimes committed by the Ukrainian armed forces, has reported opening 7,560 criminal investigations into crimes committed by the Ukrainian soldiers since the beginning of the year. These include...948 criminal proceedings under Article 408 (desertion)...'³⁷
- 7.3.3 The PN news website reported in November 2014 that the Kiev regional court of Poltava sentenced two soldiers to imprisonment for two years for desertion. This was in accordance with Article 408 of the Criminal Code (desertion). The soldiers were accused of having left a military unit and avoided military service for about a month.³⁸

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³⁶ GlobalSecurity.Org. Ukraine. Military Personnel (page last modified 26 June 2015). <http://www.globalsecurity.org/military/world/ukraine/personnel.htm> Date accessed: 20 August 2015.

³⁷ OHCHR - UN Office of the High Commissioner for Human Rights: Report on the human rights situation in Ukraine 16 February to 15 May 2015, dated 1 June 2015 (available at ecoi.net) http://www.ecoi.net/file_upload/1226_1433322481_10thohchrreportukraine.pdf Date accessed: 21 August 2015).

³⁸ News. PN. 'In Poltavshchina the court gave to two soldiers for two years of prison for desertion,' dated 4 November 2014. <https://news.pn/en/criminal/117652> Date accessed: 21 August 2015.

Version Control and Contacts

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

Clearance

Below is information on when this version of the guidance was cleared:

- Version **1.0**.
- valid from **24 November 2015**.
- this version approved by **Sally Weston, Deputy Director (IBPD)**
- approved on: **21 November 2015**.

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