

**Flygtningenævnets baggrundsmateriale**

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## COI QUERY

Country of Origin	Ukraine
Main subject	Draft evasion
Question(s)	<ol style="list-style-type: none"><li>1. Information on cases of Ukrainian draft evaders in times of war (2014)</li><li>2. Information on the possibility of any statute of limitation for cases of reservists failing to report for duty following a call-up instruction (2014)</li><li>3. Information on cases of conviction or detention, upon return, of a reservist who left the country to avoid military conscription (draft evader)</li><li>4. Information on the possibility for a draft evader to obtain a passport from an Ukrainian embassy</li></ol>
Date of completion	13 August 2018
Query Code	Q111
Contributing EU+ COI units (if applicable)	

### **Disclaimer**

*This response to a COI query has been elaborated according to the [Common EU Guidelines for Processing COI](#) and [EASO COI Report Methodology](#).*

*The information provided in this response has been researched, evaluated and processed with utmost care within a limited time frame. All sources used are referenced. A quality review has been performed in line with the above mentioned methodology. This document does not claim to be exhaustive neither conclusive as to the merit of any particular claim to international protection. If a certain event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist. Terminology used should not be regarded as indicative of a particular legal position.*

*The information in the response does not necessarily reflect the opinion of EASO and makes no political statement whatsoever.*

*The target audience is caseworkers, COI researchers, policy makers, and decision making authorities. The answer was finalised on the 13 August 2018. Any event taking place after this date is not included in this answer.*



## COI QUERY RESPONSE

### 1. Information on cases of Ukrainian draft evaders in times of war (2014)

Military service and conscription are regulated by the Law of Ukraine 'On Military Duty and Military Service'<sup>1</sup>.

As a result of a crisis in Donbas, eastern Ukraine, the Ukrainian government reinstated conscription in May 2014, despite the fact that 'Kiev scrapped compulsory military service for young men in late 2013 under a law introduced by then President Viktor Yanukovich', as informs the BBC<sup>2</sup>.

It is worth noting that, as stated by the United Nations High Commissioner for Refugees (UNHCR):

'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'<sup>3</sup>.

Even though the number of draftees was not officially revealed to the public, according to the Russian online news portal Sputnik International<sup>4</sup>, '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'<sup>5</sup>.

In February 2015, an article by the Kiev Post, an Ukrainian newspaper<sup>6</sup>, informs that 'But 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'<sup>7</sup>.

According to an article by the 'Ukrainian Week'<sup>8</sup>, dated 17 April 2015: , 'In March-April 2014, 70% of Kyiv reservists ignored the call to show up at their recruitment office, by the second round, 80% ignored it, and by the third round 90% were no-shows'<sup>9</sup>.

<sup>1</sup> Ukraine, *ЗАКОН УКРАЇНИ, Про військовий обов'язок і військову службу*, 25 March 2015 (Amended April 2018), ([url](#)).

<sup>2</sup> BBC, *Ukraine reinstates conscription as crisis deepens*, 2 May 2014 ([url](#)).

<sup>3</sup> UNCHR, *International Protection Considerations related to developments in Ukraine – Update II*, 15 January 2015, p. 8 ([url](#)).

<sup>4</sup> Sputnik International claims to be a 'modern news agency' with its headquarters located in Moscow. The Sputnik brand is owned by the Russian governmental media group Rossiya Segodnya (Russia Today). For further information, see: Sputnik International, *About Us*, n.d. ([url](#)); BBC, *Russia's global media operation under the spotlight*, 16 November 2014 ([url](#)).

<sup>5</sup> Sputnik International, *Ukrainian Parliament Approves Three Waves of Military Mobilization for 2015*, 15 January 2015 ([url](#)).

<sup>6</sup> The Kiev Post is an English-language weekly online news portal. For more information, see: ABYZ News Links, *Ukraine*, n.d., ([url](#)); BBC, *Ukraine profile – Media*, 13 July 2015 ([url](#)).

<sup>7</sup> Kiev Post, *Not everyone answering Ukraine's call to mobilize for war*, 9 February 2015 ([url](#)).

<sup>8</sup> Ukrainian Week (ukr. Tyzhden) founded in 2007 is a privately owned weekly magazine. For more information, see: ABYZ News Links, *Ukraine*, n.d., ([url](#)); Ukrainian Week, ([url](#)).

<sup>9</sup> Ukrainian Week, *Fear of Mobilization: Myths and Reality: An inside look at how the army is being formed*, 17 April 2015 ([url](#)).



An article by the Foreign Policy, published on 15 February 2015, mentions that ‘the military said in September that during partial mobilizations in 13 regions in 2014, 85,792 of those summoned didn’t report to their draft offices and 9,969 were proven to be illegally avoiding service’<sup>10</sup>.

In September 2015, a report by the UNHCR informs that ‘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’<sup>11</sup>.

As reported by an article by the Washington Post, published in April 2015, ‘Response rates vary widely across the country, however: Igor’s home region of Kharkiv, for example, 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’<sup>12</sup>.

Concerning the number of criminal investigations against draft evaders, an article by Reuters, published on 3 February 2015, indicates that ‘More than 1,300 criminal investigations have been launched against citizens suspected of avoiding military service’ and ‘in most cases the courts ordered fines or suspended sentences’<sup>13</sup>.

According to a 2015 article by USA Today, in spite of the fact that most defendants were condemned to suspended sentence, ‘Last September, however, a court convicted a dodger and sentenced him to prison for two years’<sup>14</sup>.

Based on an Ukrainian source, the aforementioned UNHCR report claims the following:

‘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’<sup>15</sup>.

In April 2016, an article on court practices related to mobilization, including draft evasion, published by Ilyashev & Partners, a Ukrainian law firm<sup>16</sup>, states that ‘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>17</sup>.

<sup>10</sup> Foreign Policy, *The Draft Dodgers of Ukraine*, 18 February 2015 ([url](#)).

<sup>11</sup> UNHCR, *International Protection Considerations Related to the Developments in Ukraine – Update III*, 24 September 2015, p. 13 ([url](#)).

<sup>12</sup> UNHCR, *International Protection Considerations Related to the Developments in Ukraine – Update III*, 24 September 2015, p. 13 ([url](#)); Washington Post, *Ukraine’s military mobilization undermined by draft dodgers*, 25 April 2015 ([url](#)).

<sup>13</sup> Reuters, *Bravado, resentment and fear as Ukraine calls men to war*, 3 February 2015 ([url](#)).

<sup>14</sup> USA Today, *Thousands dodge Ukraine army in fight with rebels*, 6 May 2015 ([url](#)).

<sup>15</sup> UNCHR, *International Protection Considerations related to developments in Ukraine – Update II*, 15 January 2015, p. 9 ([url](#)).

<sup>16</sup> Ilyashev & Partners is a law firm founded in 1997 and claims to be ‘one of the most prominent and authoritative full-service law offices of CEE region’. For further information, see: Ilyashev & Partners, *About Us*, n.d. ([url](#)).

<sup>17</sup> Ilyashev & Partners, *Mobilization: medical contraindications and legal reservations*, 7 April 2016 ([url](#)).



## 2. Information on the possibility of any statute of limitation for cases of reservists failing to report for duty following a call-up instruction (2014)

The punishment for draft evasion is regulated by Sections 335, 336 and 337 of the Ukraine's Criminal Code<sup>18</sup> and, in addition, by Section 210 of the Code of Ukraine on Administrative Offences<sup>19</sup>.

An article by the Euromaidan Press, a Ukrainian English-language newspaper<sup>20</sup>, published on 23 July 2014, summarises the punishment for draft evasion during full or partial mobilisation as follows:

‘No-shows during full or partial mobilization are to face administrative responsibility 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. For avoiding military service during mobilization, article 336 of the Ukrainian Criminal Code prescribes a jail sentence of between two and five years’<sup>21</sup>.

However, according to several sources published in 2015, a person who evades military service is liable to imprisonment for up to five years or an administrative fine of UAH 85 - 5 100 depending on case circumstances<sup>22</sup>.

A 2014 article by the ‘KM Portal’, an Ukrainian online portal<sup>23</sup>, informs that ‘the statute of limitation for crimes such as desertion or refusal to perform military service may be no less than five years’<sup>24</sup>.

In an article by ‘RIA Novosti Ukraine’, published on 28 January 2015, a lawyer named Aleksander Moskalyuk explains that the statute of limitation for draft evasion is five years, but this term is not applied to a person who evades pre-trial investigation or a court<sup>25</sup>.

## 3. Information on cases of conviction or detention, upon return, of a reservist who left the country to avoid military conscription (draft evader)

Among all sources consulted and within the timeframe allocated to respond to this query, no specific information could be found on cases of conviction or detention, upon return, of a reservist who left the country to avoid military conscription (draft evader).

<sup>18</sup> Ukraine, *Кримінальний кодекс України*, 1 September 2001 ([url](#)).

<sup>19</sup> Ukraine, *Кодекс України про адміністративні правопорушення*, 7 December 184, ([url](#)).

<sup>20</sup> The Euromaidan Press is an online independent newspaper ran by Ukrainian volunteers; its coverage focuses on Ukraine and ‘provides translations of Ukrainian news and expert analysis as well as independent research’. It claims to ‘bridge Ukraine with the English-speaking world’. For more information, see: Euromaidan Press, *About Us*, n.d. ([url](#)).

<sup>21</sup> Euromaidan Press, *Partial mobilization: why is it necessary and who should await summons*, 23 July 2014 ([url](#)).

<sup>22</sup> IRB, *Ukraine: Military service, including information on military service notices, who issues them, their contents, and physical characteristics; whether notices have a warning regarding refusal or evasion of military service; information on penalties for refusing or evading military service (2014- May 2015) [UKR105186.E]*, 1 June 2015 ([url](#)); TSN – 1+1, *Как Украинцев накажут за уклонение от мобилизации: Штрафы и тюрьма*, 22 January 2015 ([url](#)).

<sup>23</sup> KM Portal is a ‘part of the Information Agency WTS Consulting LLC’, where KM Partners, a Ukrainian law firm, claims to share its tax and legal materials. For further information, see: KM Portal, *About Portal*, n.d. ([url](#)).

<sup>24</sup> KM Portal, *Что нужно знать мобилизованному об уголовной ответственности*, 1 August 2014 ([url](#)).

<sup>25</sup> RIA Novosti Ukraine, *Мобилизация найдет вас и за границей Украины. Даже в России*, 28 January 2015 ([url](#)).



According to information provided by 'Global Security', and updated on 3 July 2018, 'Citizens of Ukraine military of conscription age traveling abroad must show a document issued by a military commissariat'<sup>26</sup>.

Two sources indicate that the Ukrainian authorities have restricted foreign travel for people of conscription age because a significant number of draftees have evaded military service by traveling abroad<sup>27</sup>.

The aforementioned article by the Foreign Policy (2015) states that:

'At the end of January, Poroshenko ordered the government to adopt legislation to regulate travel abroad for those eligible for conscription. In February [2015], the armed forces said it would forbid draft-eligible men from leaving their home provinces without permission from the local military commissar'<sup>28</sup>.

According to a representative of the International Organization for Migrations (IOM), interviewed by the French Office for the Protection of Refugees and Stateless persons (OFPRA) and the Austrian Federal Office for Immigration and Asylum (BFA), in June 2016, during a fact-finding mission to Ukraine: "everyone is doing everything to escape mobilization and going to the East"; "increased number of marriages with Europeans attests to it". For IOM it is a real issue; there are some cases of Ukrainians stranded in Sri Lanka to avoid mobilization'<sup>29</sup>.

An article by 'Ukrayinska Pravda', a Ukrainian newspaper<sup>30</sup>, published on 27 January 2015, indicates that approximately 37% of draftees in Ivano-Frankivsk Oblast, western Ukraine, left the country<sup>31</sup>. In the same article, a presidential adviser is quoted as saying that 'It is unofficially well known that hostels and motels in the border regions of neighboring Romania are completely filled with draft dodgers'<sup>32</sup>.

The Kiev Post, in an article published on 9 February 2015, reports that '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'<sup>33</sup>.

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<sup>26</sup> Global Security, *Ukrainian Military Personnel*, updated on 3 July 2018 ([url](#)).

<sup>27</sup> Foreign Policy, *The Draft Dodgers of Ukraine*, 18 February 2015 ([url](#)); Vesti – Ukraine, *Генштаб ограничил право военнообязанных свободно ездить по Украине*, 2 February 2015 ([url](#)); Vesti – Ukraine is an online news portal of a privately-owned daily newspaper, it claims to cover both local and international news and was founded on 14 May 2013. For further information, see: Vesti – Ukraine, *О проекте «Вести»*, 22 September 2016 ([url](#)).

<sup>28</sup> Foreign Policy, *The Draft Dodgers of Ukraine*, 18 February 2015 ([url](#)).

<sup>29</sup> BFA/OFPRA, *Fact Finding Mission Report Ukraine*, May 2017, p. 36 ([url](#)).

<sup>30</sup> Ukrayinska Pravda is an independent online news portal founded in 2000 that mostly covers national politics. For more information, see: ABYZ News Links, *Ukraine*, n.d., ([url](#)); Ukrayinska Pravda, *Facebook Profile - Ukrayinska Pravda: About*, n.d. ([url](#)).

<sup>31</sup> Ukrayinska Pravda, *Бирюков возмущился первыми результатами выполнения плана мобилизации*, 27 January 2015 ([url](#)).

<sup>32</sup> Ukrayinska Pravda, *Бирюков возмущился первыми результатами выполнения плана мобилизации*, 27 January 2015 ([url](#)).

<sup>33</sup> Kiev Post, *Not everyone answering Ukraine's call to mobilize for war*, 9 February 2015 ([url](#)).



In 2016, an article by the Ukrainian news portal Censor.net<sup>34</sup> informs that the Security Service, in cooperation with the State Border Guard Service, arrested two males who were trying to set up a criminal ring with an aim of smuggling draft evaders into Belarus<sup>35</sup>.

#### **4. Information on the possibility for a draft evader to obtain a passport from a Ukrainian embassy**

Among all sources consulted and within the timeframe allocated to respond to this query, no specific information could be found on the possibility for a draft evader to obtain a passport from an Ukrainian embassy.

However, the below information could be of relevance to the question.

Referring to the Czech newspaper 'Lidove Noviny', the Prague Post, dated 12 August 2014, notes that 'Some 20,000 Ukrainian men in the Czech Republic, mainly immigrants with long-term or permanent residence permits, have been called up. Most of them came to the country to seek jobs, but they did not announce their stay to the Ukrainian authorities'<sup>36</sup>.

According to the Ukrainian consul Valerii Lobach, quoted in a 2014 article published by the Prague Post, a Czech online news portal<sup>37</sup>, 'if they reported to the Ukrainians authorities in the Czech Republic (the embassy in Prague or the consulate in Brno), the call-up orders would not apply to them'<sup>38</sup>. The same sources mentions that 'The Ukrainian Embassy in Prague has not received any instructions from the Ukrainian government to organize the conscription of Ukrainians abroad'<sup>39</sup>.

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<sup>34</sup> Censor.net is an online news portal Censor founded in 2004. It mostly covers Ukrainian politics and often publishes materials of the Interfax – Ukraine, a national news agency. For further information, see: Censor. net, ABYZ News Links, *Ukraine*, n.d., ([url](#)); Censor.net, ([url](#)); Censor.net, *Facebook profile - Censor.net: About*, n.d. ([url](#));

<sup>35</sup> Censor, *Незаконный канал переправки в Беларусь украинцев, уклоняющихся от призыва, ликвидирован на Ривненщине, - СБУ. ФОТО*, 28 July 2016 ([url](#)).

<sup>36</sup> Prague Post, *Ukrainians in Czech Republic called up to serve in war*, 12 August 2014 ([url](#)).

<sup>37</sup> The Prague Post is a Czech online news portal of the Prague Post Magazine. It claims to cover 'news about Prague, Czechia and the world in general' and its website is 'more blogging oriented, rather than journalism'. For further information, see: Prague Post, *About Us*, n.d. ([url](#)).

<sup>38</sup> Prague Post, *Ukrainians in Czech Republic called up to serve in war*, 12 August 2014 ([url](#)).

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