

CONSCRIPTION, COERCION AND INTERNATIONAL HUMAN RIGHTS LAW

Baran Anzhelika

DOI: <https://doi.org/10.61345/1339-7915.2024.3.3>

Annotation. The aim of the work is examines the complexities surrounding conscription within the context of Ukraine's ongoing conflict with Russia. It provides a detailed analysis of the historical evolution of military conscription, highlighting its role in state formation and defense across different eras. The paper explores the legal frameworks governing conscription, including international human rights law, and the balance between national security and individual rights. The article discusses the significant challenges Ukraine faces in mobilizing its armed forces amidst prolonged conflict, including the waning enthusiasm for enlistment and the increasing demand for additional soldiers. It delves into the societal divisions over compulsory military service, contrasting views on its necessity versus its human rights implications. Key sections cover the historical origins and variations of conscription, its impact during major global conflicts, and contemporary practices in different countries. The paper also analyzes the legal and ethical dimensions of conscription, particularly the limitations imposed by international human rights standards. Overall, the article aims to provide a comprehensive understanding of conscription's role in modern warfare and the legal and moral considerations involved, offering insights into how Ukraine can navigate its current mobilization efforts while upholding human rights.

Research methodology. This study employs a multifaceted research methodology to comprehensively examine the issue of conscription, particularly within the context of Ukraine's current conflict with Russia. The methodology is designed to capture both historical and contemporary perspectives on conscription, analyze legal frameworks, and assess the ethical and practical implications of mandatory military service. The research methodology includes the following components: **Legal Analysis:** to analyze the legal frameworks governing conscription, with a focus on international human rights standards and domestic legislation. **Case Studies:** to explore practical examples and real-world applications of conscription policies. **Analysis of conscription practices in various countries,** including historical case studies and contemporary examples. **Case studies include** Ukraine's current mobilization efforts, as well as practices in countries with mandatory military service such as Switzerland, Israel, and South Korea. The case studies provide insight into how different nations handle conscription and its consequences. **Comparative Analysis:** to compare conscription practices and their impacts across different contexts. **Comparison of conscription systems in various countries** to identify similarities, differences, and best practices. This involves analyzing the effectiveness of different conscription models and their compliance with international human rights standards. This research methodology aims to provide a comprehensive understanding of conscription's role in state defense and its implications for human rights, drawing on historical analysis, legal evaluation, empirical data, and ethical considerations.

The subject is legal customs, legal doctrine, International human rights law, legislation of Ukraine and the legislation of foreign countries in the field of the conscription.

Conclusions. The author of the mentioned study comes to the conclusion that the system of military conscription played an important role in the state's growing regulation of society and in shaping the mentalities and actions of the public. It was also an important element for defining citizenship in modern times. But at the same time it became one of the most highly contested public issues. Conscription is not in and of itself unlawful. However, international human rights law may interpret certain actions of the state as criminal, in particular the mobilization of minors,



etc. Defending the Motherland is a constitutional duty of every citizen, as defence is one of the most important functions of the state and is the business of the entire nation.

Every citizens and sodiers, both those who have chosen military service as their profession and those who are volunteers who have stood up to defend the Motherland in difficult times, sacrificing their own lives, must always remember that serving the country is a sacred duty of every citizens.

It seems that the final choice is in favor of forced or voluntary conscription of the armed forces has not yet been completed, and it is Ukraine that can be the bearer of a new trend that will have its influence and spread in the region and throughout Europe. Ukrainian society today is a certain indicator of this process, it is Ukraine that is the bearer of the trend of reviving forced recruitment, to which several European countries have turned in recent years.

Key words: conscription, International human right law, coercion, professional army, defend the Motherland, military duty.

1. Introduction.

It has been a decade from initial Russian invasion and the third year since the start of the full-scale war. Despite this long-lasting Russian aggression, the international community still failed to effectively influence Russia through economic and political sanctions for violating international law on the prevention of armed aggression . The only way to prevent the loss of Ukraine's sovereignty, territorial integrity and independence is through military resistance by Ukrainians at the front. Despite the enormous financial and military aid given to Ukraine [1], Ukrainians (both military and civilian) are paying an extremely high price - the price of their lives. Despite the loud statements of the leaders of the democratic world [2], Ukrainians still have to rely on their own strength for defending the country. Unfortunately, human resources, those who can fight, are not unlimited and are rapidly being exhausted.

While in the first weeks of the war in February 2022 Ukrainians queued up at recruitment centres to join the army , after 24 months of bloody stalemate that continued to cost thousands of lives, this initial enthusiasm has waned. Meanwhile, a sense of exhaustion both at home and among Ukraine's allies made joining the army much less attractive. Today, Ukraine is bleeding and exhausted. And to continue the fight, it needs more soldiers (about 500,000 more, which means that mobilisation must be intensified. This is being demanded both by the Ukrainian military leadership and by foreign partners. However, it also relates to one of the most difficult challenges Ukraine faces in this war today: balancing the need to defend the country's independence against an existential threat with the painful reality of having to call up hundreds of thousands of civilians - taxpayers, fathers, brothers, husbands and sons – to fight.

This extremely sensitive discussion on the mobilization polarises Ukrainian society [3]. One side believes that the coercion to fulfil the constitutional duty to defend the Motherland during martial law is fair, because it is essential for the existence of the state. They argue that the punishment for draft evasion should be increased. Meanwhile, people on the other side believe that compulsory mobilization is unacceptable because it violates human rights. They argue that increased mobilization will have only negative consequences such as new losses of life, reduced economic potential, a new wave of migration and insignificant changes to the amount of recaptured territory.

It is critical that newreforms of Ukraine's wartime military legislation resolve this dispute and ensure that national security and human rights are paramount. So, this research will concern what is the legal nature of the conscription and whether the state is entitled to apply force mobilization to citizens in accordance with the norms of International human rights law?

The history of conscription. The significance of armed forces in the existence of a state is indisputable. The initial organized armies emerged with the advent of the earliest complex political structures.

These armies were based on various variations of coercion conscription or professional (voluntary) army, or both.

Conscription, a historical practice, in its current interpretation usually involves compulsory military service. This obligation may be valid in time of war or preserved in time of peace. The modern framework of military conscription is closely related to the concept of citizenship. Vattel argued that the main duty of the state to its citizens is to preserve the state itself. He posited that conscription constituted a civic duty owed by citizens to the state, a duty reciprocated by the state's right to mandate military participation. According to him, «Every citizen is bound to serve and protect the state to the best of their abilities. Society cannot be preserved otherwise; and this union for common defense is one of the first objects of any political association. Everyone who can bear arms must take them up as soon as he is ordered to do so by the one who has the power to wage war» [4].

Nevertheless, conscription in its modern sense is typically associated with the French Revolutionary government's reliance on the *levée en masse* to counter allied efforts to restore the French monarchy.

This system is considered the most fair, because the requirements were the same for all sections of the population and were enshrined in state legislation. Although conscription in France was initially defensive, it took on a different function during the expansion of the Napoleonic empire. The 30,000 men Napoleon boasted to Metternich that he could lose per month could hardly be said to have consented to being killed. The new permanent conscription system in France was based on the annual conscription of all men between the ages of 20 and 25 who were single or widowed without children. Exceptions were granted to sole breadwinners, clergy, seminarians, workers in the most important industries of wartime, civil servants, those considered too short or «weak in stature», as well as students of selected universities [5].

Although Prussia had introduced a cantonal system of conscription in the 1730s,²⁴ the Prussian's responded to Napoleonic invasion by the institution of universal military service in a national army in 1814, which began with the injunction: «Every citizen is bound to defend his Matherland» [4].

Soldier uniforms became synonymous with patriotism and legitimate statehood during the war at that time, which has since become standard practice (the impact of uniforms today is codified in international military law). Oliver Cromwell was one of the first to dress his militia in uniform - its visual symbol emphasized the professionalization of the military and the observance of discipline. Uniforms represented standardization as well as sovereign control. Even impractical for movement, combat, or efficiency, such as certain versions of the British Red Coat. versions of the British «red coat» or some wildly extravagant and expensive Napoleonic uniforms [6].

The partial introduction of conscription in the Ottoman Empire in the middle of the 19th century was also justified by the need to protect the country.

In the United States, conscription was associated with ideas of mutual aid among citizens for self-defense, as James Monroe said: «The commonwealth has a right to the service of all its citizens, or rather the citizens composing the commonwealth have a right, collectively and individually to serve each other to ward off any danger that may threaten» [4].

The apogee of the use of conscription as a system of equipping the armed forces was the two World wars, when the million-strong armies included almost the entire male population of the warring countries.

At the beginning of the First World War, conscription was used by all belligerents except Great Britain and the United States, which introduced it when there were insufficient volunteers to meet military needs.

Later, most European countries followed a system of general compulsory military service even in peacetime.

Conscription was also widely used during World War II. In particular, the US Selective Training and Service Act of 1940 contained a provision that the duty to comply with the draft is based on the obligation of citizens to participate in the collective defense of society: «Congress also declares that in a free society the duties and privileges of the military training and service should be common in accordance with a fair and just system of selective compulsory military training and service» [7].



Conscription was also necessary for the armies of despots who carried out aggression. When on March 16, 1935, Hitler ordered general conscription through the Gesetz über den Aufbau der Wehrmacht («Law on the Construction of the Defense Forces») [4].

After the end of the Second World War, and even more so after the end of the Cold War, the collapse of the Soviet Union and the Warsaw Pact, most democratic countries saw no need to prepare for a large-scale war in Europe. At the same time, the military potential was directed to peacekeeping and international missions, for which conscripts are not suitable, and in most countries are inadmissible by law. The basis of peacekeeping missions was professional soldiers whose service was based on a contract. The decline in conscription raised concerns about equality, as conscription no longer affected the full (male) age cohort, but only those unlucky enough to be conscripted at the call of the state.

There are many disadvantages to compulsory military service, including the fact that it is a forced service that restricts the rights, for example the right to life. There is the risk of being injured in peacetime during a military training. Freedom to movement, right to liberty and security, inequality, negatively affects plans of young people, compromises the quality of military service. The growing level of draft evasion, the significant financial costs of public funds, as well as the public opinion that the conscription army is a vestige of the Cold War or Soviet totalitarianism, contributed to the introduction of changes in legislation that abolished or stopped conscription that seemed unnecessary in peacetime. The army in most countries has become professional (between 1990 and 2013, 24 current European Union countries decided to abandon the draft) [8].

And where conscription still existed, it usually provided alternatives to military service for religious, medical, ideological reasons, etc.

Today, countries where there is no conscription, and the army is formed on a contract basis in peacetime, reserve the option of reintroducing conscription in case of war - when it may not be possible to mobilize the necessary manpower through volunteers or only through fiscal taxes.

After the start of the Russian-Ukrainian conflict, the process of restoring compulsory military service began. In particular, in those states that see a threat in neighboring states. For example, countries such as Estonia, Lithuania, Finland are likely to perceive Russia as a threat.

Debates regarding the restoration of compulsory military service are also taking place in other countries [9]. Especially in Germany based on an online survey of more than 7,300 people, this article examines how Germans feel about compulsory service and what factors are associated with this attitude. More than 63% of respondents are in favour of compulsory service. Psychological factors such as solidarity, sense of duty, extraversion and openness play just as important a role as political attitudes. People who position themselves more right-wing/nationalist/traditional view compulsory service more positively than liberal and left-wing respondents [10].

The concept of conscription as a obligation. No theory of political obligation can defend an absolute duty to obey the law, regardless of its content, and most theories have reservations about this. In addition, some political theorists, such as Hobbes and Rousseau, have addressed the issue of «obeying the law». The duty to die for one's country and the duty to kill are separate ethical categories. For example, Rousseau believed that bearing arms on behalf of the state is the highest social duty, as everyone participates in ensuring the security of the country [11].

The starting point for the study of this issue was the OSCE Code of Conduct on Politico-Military Aspects of Security. It contains several references to the rights of military personnel, the most important of which is contained in paragraph 32:

This paragraph emphasises the principle that members of the armed forces have the right to enjoy their human rights, subject to the limitations and duties of military service as provided for by the laws of the country concerned. Other provisions of the Code of Conduct on Politico-Military Aspects of Security refer to the human rights of armed forces personnel in the context of political neutrality of the armed forces (paragraph 23); recruitment and conscription (paragraph 27); rights and obligations of military personnel and exemption from military service or alternative service (paragraph 28); the

obligation of states to provide appropriate legal and administrative procedures to protect the rights of members of the armed forces (paragraph 33) [12].

The European Court of Human Rights clearly indicated the legitimacy of this approach in its 1976 precedent-setting judgment in the (case of Engel and others v. the Netherlands), in which the Court stressed that the European Convention on Human Rights applies not only to civilians but also to military personnel. At the same time, the Court noted that the rights and freedoms of military personnel may differ in practice from those of civilians and pointed out the need to «bear in mind the particularities of military service and the impact they have on members of the armed forces» when interpreting and applying the Convention [13].

Some human rights treaties allow signatory states to make reservations to certain provisions of the treaty. This means that a state can unilaterally exclude or amend certain provisions regarding the application of the treaty on its territory. For example, several OSCE participating States have made reservations to Article 5 (liberty and security of person) and/or Article 6 (European Convention on Human Rights) (right to a fair trial by an independent and impartial tribunal) in relation to their military justice systems. Similarly, some participating States have made reservations with regard to discipline in the armed forces. If any provisions of a treaty have been accepted by a State with a reservation in force, those provisions can only be applied to that State subject to that reservation.

Sometimes conventions do not provide states with the opportunity to make reservations upon ratification (this is the case with ILO conventions). In such cases, the conventions themselves may contain provisions allowing for flexibility in their application. For example, the application of freedom of association and the right to collective bargaining to the armed forces and police is left entirely to the discretion of each individual state. It should also be noted that, in relation to the armed forces, the ILO definition of «forced labour» does not apply to compulsory military service due to its «purely military nature» [14].

Scientific theories that demonstrate the indisputability of military duty. Political obligation theory. In the literature on political obligations, the obligation to obey the law, which is independent of context and content, is justified on the basis of consent, justice, natural obligations of fairness, and democratic authority.

Consent or obligation theory views political obligations as obligations of loyalty. The idea is that society cedes power to the government and decides to make a political commitment, and citizens have made a commitment to abide by the law.

These theories tend to be voluntaristic (whether people agree or not is irrelevant to establishing the obligation to obey the law), and they often include arguments from theories of justice, shared responsibilities, and natural duties.

The theory of justice argues that the state provides its citizens with significant benefits that would otherwise be unavailable to them. For example, in Hobbes' description of the state, we see that citizens benefit from membership in the state because its existence allows individuals to receive a number of benefits to which they would otherwise not have access, such as security, the existence of a legal system, solving coordination problems, etc.

For example, in the context of conscription, J. Rawls proposes to defend conscription as a fair way to distribute the burden of national defence. Given that even successful welfare states cannot completely eliminate the possibility of aggression by another country, they must ensure that the burden of defending the country is distributed evenly among all members of society over their lifetime, and that class bias in choices is inevitable. In addition, given that conscription is a «radical interference with fundamental freedoms», D. Rawls believes that conscription can only be justified if it is necessary to protect freedom itself [15].

An important argument in favour of mobilisation was that it contributed to the formation of loyal and moral citizens, as conscription itself was a «school of the nation» [16]. However, as notes, the idea that the military can and should play a role in the formation of virtuous citizens in most contemporary political views is at odds with the democratic understanding of what makes a citizen virtuous.

The principle of military justice is based on the fact that since the purpose of conscription is to ensure the military defence of the country - everyone essentially benefits (e.g. an independent state will guarantee their rights) - conscription is an obligation for all citizens. In addition, the German Constitutional Court has emphasised that national military service is «an expression of the idea of universal equality» (German ist Ausdruck des allgemeinen Gleichheitsgedankens) and that «the constitutional requirement of equal civil obligations shapes military justice» (Gestalt der Wehrgerechtigkeit).

This notion can be expressed in the following scheme: Obligations → Benefiting the whole society → Equality → National idea → Justice.

Conscription and International Law of Human Rights. As stated in the Annual Report of the United Nations High Commissioner for Human Rights, while forced labour is prohibited under international human rights law, conscription is not [17]. International law does not prohibit the conscription (or forced military service) of a country's nationals. International law generally recognises the conscription of nationals for military service. Voluntary conscription and service in foreign armies are also not violations of international law.

For non-state armed actors (such as rebels, paramilitary, and extremist groups), forced conscription constitutes a violation akin to involuntary servitude or abduction, as these actors do not possess the same legal privileges as sovereign states. Recruitment by non-state actors must always be voluntary and devoid of any coercion.

Despite the sovereign privileges of states, compelling military service can still violate individual rights in certain situations. Examples of such violations include:

- Arbitrary detention without any conscription order or notice
- Deployment to combat without the opportunity to appeal the conscription order (absence of due process)
- Coercive ultimatums, such as being forced to choose between fighting for the state or facing death or torture
- Conscription of individuals suffering from serious medical conditions or disabilities
- Recruitment of children (discussed in further detail below) [18].

Punishment for draft dodging of legislation of Ukraine and abroad. In countries where military service is compulsory, failure to perform this duty is frequently punishable by law. Moreover, whether military service is compulsory or not, desertion is invariably considered a criminal offence. The Penalties may vary from country to country, and are not normally regarded as persecution. Fear of prosecution and punishment for desertion or draft-evasion does not in itself constitute well-founded fear of persecution under the definition [19].

The liability for violation of the legislation on mobilisation training and mobilisation is quite democratic, despite the fact that the country is under martial law. Thus, on 19 May 2024, Article 210 of the Code of Ukraine on Administrative Offences was amended.

Thus, violation of the legislation on mobilisation training and mobilisation of persons liable for military service and reservists during a special period may result in a fine of one thousand to one thousand five hundred (UAH 17,000 – 25,500) tax-free minimum incomes. Citizens and officials of state bodies who violate the legislation on defence, mobilisation preparation and mobilisation for a special period may be fined from one thousand to one thousand five hundred tax-free minimum incomes (UAH 17,000 to 25,500). Local self-government bodies, legal entities and public organisations shall pay a fine in the amount of 2,000 to 3,500 tax-free minimum incomes (UAH 34,000 to 59,500).

Criminal liability is provided for evasion of conscription for military service (Article 335 of the Criminal Code of Ukraine); evasion of mobilisation (Article 336 of the Criminal Code of Ukraine) and evasion of military registration and special training (Article 337 of the Criminal Code of Ukraine) [20].

In many countries of the world, violation of the legislation on military service entails much more serious consequences than in Ukraine and usually involves real terms of imprisonment.

Switzerland has a special attitude towards evaders. Conscripts who for some reason cannot perform military or alternative service will be forced to pay a tax of 3% of their income, but not less than CHF 400 (approximately USD 420), until they reach the age of 30. Unreasonable evasion of mobilisation is punishable by imprisonment.

All healthy citizens of the country over the age of 18, regardless of gender, are obliged to be drafted into the Israeli Defence Forces (IDF). Holders of permanent resident status will also receive a draft notice. They must serve for many years: three for men and two for women.

Evading the draft is considered a criminal offence. Violators are hunted down, and the military police conduct regular raids. The punishment depends on the circumstances, and usually ends in imprisonment - from two to five years. Even after serving your sentence, you still have to pay back your debt to your home country and serve your full term of service.

But the worst is yet to come for the evaders. Data on shameful convictions are stored in national databases and only spoil the lives of offenders.

In Finland, persons of conscription age have a choice: conscription can be replaced by alternative service or by imprisonment for 173 days.

In Singapore, boys receive their first calls to the maternity hospital immediately after birth. This is not a joke. The state reminds parents in advance of their responsibilities while waiting for their children. Boys receive another reminder when they turn 13. Singapore has a compulsory military service. Upon reaching the age of majority, young men join the armed forces. Service lasts from 22 to 24 months.

Evaders in Singapore face a fine of up to 10,000 local dollars (approximately US\$7,000). For particularly serious offenders, the maximum penalty is imprisonment for up to three years.

The age of military service in South Korea is from 18 to 35 years. Unlike in some other countries, South Korean recruits do not receive draft notices and are not hunted by the local military police. Here, everyone decides when to join the army.

The only way to avoid the draft completely was through medical restrictions, especially homosexuality, which was considered a disease in the country. If you evade service, you can be imprisoned for 18 months and have a criminal record, which will seriously affect your future employment opportunities [21].



2. Conclusions.

The study of conscription, particularly in the context of Ukraine's ongoing conflict, reveals a complex interplay between national security needs and individual rights. Over the past decade, Ukraine's struggle to maintain sovereignty and territorial integrity amidst sustained aggression has underscored the critical role of military forces. Despite extensive international support, the high human and financial costs of this conflict have placed immense pressure on Ukraine to expand its military capabilities, necessitating an increased focus on conscription.

Historically, conscription has evolved from early forms of compulsory service to more structured and formal systems, reflecting changes in political organization and military needs. From the French Revolutionary era to contemporary examples in countries like Switzerland and Israel, conscription has been employed as a means to ensure national defense. However, the imposition of mandatory military service is not without its challenges, including ethical concerns, human rights implications, and societal impacts.

International human rights law does not categorically prohibit conscription but does impose limits to ensure that such measures respect fundamental rights. The European Court of Human Rights and various international treaties emphasize the need for fair and just application of conscription laws, protecting individuals from abuses such as arbitrary detention and coercive recruitment practices.

In Ukraine, the debate over conscription highlights a tension between the urgent need for military personnel and the ethical implications of compulsory service. While the Ukrainian government and military leadership advocate for intensified mobilization to bolster defense efforts, this approach has sparked controversy among the public and international observers. The increasing call for conscription reflects the reality of prolonged conflict and the necessity of balancing defense needs with the preservation of human rights. The research underscores the importance of addressing these challenges through well-designed legal and policy frameworks. Ensuring that conscription practices are in line with international human rights standards, while also meeting national security requirements, is essential for maintaining both the effectiveness of military operations and the integrity of individual rights.

In conclusion, the study highlights the need for a nuanced approach to conscription that accommodates the demands of wartime mobilization while safeguarding fundamental freedoms. Future research and policy development should focus on finding optimal solutions that address the dual objectives of national security and human rights protection, providing a framework for equitable and ethical conscription practices.

References:

1. The arms and military equipment Germany is sending to Ukraine. <https://www.bundesregierung.de/breg-en/news/military-support-ukraine-2054992>.
2. Anthony Torres, French army prepares to send ground troops to Ukraine. <https://www.wsws.org/en/articles/2024/03/22/wsiz-m22.html>.
3. Nathan Rott, Claire Harbage, Hanna Palamarenko, As Ukraine seeks to replenish its depleted army, a divide grows among its civilians. URL: <https://www.npr.org/2024/01/31/1226251649/ukraine-russia-war-conscription-military>.
4. Neil Boister, Conscription to Fight a War of Aggression under International Criminal Law, *Journal of International Criminal Justice*, Volume 21, Issue 2, May 2023, Pages 265–289, <https://doi.org/10.1093/jicj/mqad016>.
5. Ingesson, T., Lindberg, M., Lindvall, J., & Teorell, J. (2018). The martial origins of democracy: a global study of military conscription and suffrage extensions since the Napoleonic wars. *Democratization*, 25(4), 633–651. <https://doi.org/10.1080/13510347.2017.1405935>.
6. Yvonne Chiu. *Uniform Exceptions and Rights Violations Social Theory and Practice* Vol. 36, No. 1 (January 2010), pp. 44-72.
7. Tetzlaff, Uwe. *Vom (un)möglichen Zustand des Wehrpflichtrechts Rechtsprobleme der Allgemeinen Wehrpflicht im deutschen Verfassungs- und Europarecht Schriften zum Öffentlichen Recht (SÖR)*, 2009. 455 s.
8. Joeri Rongé, Giulia Abrate, Mario Blokken. *Conscription in the European Union Armed Forces: National Trends, Benefits and EU Modernised Service*. Food for thought 07-2019. <https://finabel.org/conscription-in-the-european-union-armed-forces-national-trends-benefits-and-eu-modernised-service>.
9. Hutt David. Which European countries are rethinking military service amid Ukraine war? URL : <https://www.euronews.com/my-europe/2022/07/26/which-european-countries-are-rethinking-military-service-amid-ukraine-war> , Mandatory military conscription in Europe: addressing past or present threats? <https://www.pubaffairsbruxelles.eu/opinion-analysis/mandatory-military-conscription-in-europe-addressing-past-or-present-threats>.
10. Jäckle, Sebastian. "Conscription Reloaded? The Debate About Compulsory Service in Germany in 2022 and the Peoples' Attitudes Towards It" *Statistics, Politics and Policy*, vol. 14, no. 1, 2023, pp. 65-89. <https://doi.org/10.1515/spp-2022-0020>.

11. Michael Walzer. *Obligations; Essays on Disobedience, War, and Citizenship*. Harvard University Press (1 Jun. 1970). 260 p.
12. Code of Conduct on Politico-Military Aspects of Security (3 December 1994). Organization for Security and Co-operation in Europe. URL: <https://www.osce.org/fsc/41355>.
13. Case of Engel and others v. the Netherlands (Application no. 5100/71; 5101/71; 5102/71; 5354/72; 5370/72). URL: <https://hudoc.echr.coe.int/eng#>.
14. Beth A. Simmons, (2009) *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge, Cambridge University Press.
15. Rawls, John, (1921) *A theory of justice* / John Rawls. Rev. ed. p. cm. Includes bibliographical references and index. URL. <https://giuseppicapograssi.wordpress.com/wpcontent/uploads/2014/08/rawls99.pdf>.
16. Vincenzo Bove, Riccardo Di Leo, Marco Giani *Military Culture and Institutional Trust: Evidence from Conscription*, October 2022 *American Journal of Political Science* 68(2) https://www.researchgate.net/publication/364553376_Military_Culture_and_Institutional_Trust_Evidence_from_Conscription_Reforms_in_Europe.
17. Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Report of the Office of the United Nations High Commissioner for Human Rights on Conscientious Objection, 9th Sess., U.N. Doc. A/HRC/9/24, p. 2 (20 August 2008) URL: <https://documentsddsny.un.org/doc/UNDOC/GEN/G08/151/73/PDF/G0815173.pdf?OpenElement>.
18. Forced conscription under International law. Syria Justice and Accountability Centre <https://syriaaccountability.org/content/files/2022/08/Forced-Conscription-Under-International-Law.pdf>.
19. Deserters and persons avoiding military service From UNHCR Handbook URL: <https://en.connection-ev.org/article-1415>.
20. Criminal Code of Ukraine. The Official Bulletin of the Verkhovna Rada (BVR), 2001, No. 25–26 URL: <https://zakon.rada.gov.ua/laws/show/2341-14?lang=en#Text>.
21. Alfred Blumstein, Daniel Nagin. *The Deterrent Effect of Legal Sanctions on Draft Evasion* *Stanford Law Review*, 2017, Vol. 29, No. 2 (Jan., 1977), pp. 241-276.

Anzhelika Baran,

PhD of Law,

*Associate Professor, Department of International Law and Migration Policy, Faculty of Law,
West Ukrainian National University, International Researcher*

(University of Osnabrück, Germany)

E-mail: abaran_wunu@ukr.net, abaran@uni-osnabrueck.de

ORCID: 0000-0003-2134-1325