

THE ECONOMICS OF MOBILIZATION

**PROPOSALS FROM THE GERMAN-UKRAINIAN
BUSINESS COMMUNITY**



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POSITION PAPER ON UKRAINE'S MOBILIZATION LAW

The German-Ukrainian Chamber of Industry and Commerce (AHK Ukraine) supports its members and the business community in Ukraine during these challenging times. Russia's war of aggression has profoundly impacted companies, necessitating balanced policies that support both national defense efforts and economic stability. This position paper addresses key concerns regarding employee

reservation, vehicle regulations, and travel restrictions, which are essential for the continued operation of businesses in Ukraine.

AHK Ukraine calls for mobilization that does minimum harm to companies and the economy.

1 Resumption of employee reservation and update of critical enterprise status from 01.12.2024

1.1. VALIDITY OF THE CURRENT RESERVATION

! Current problem: Deferrals from mobilisation granted before 1 December by decisions of the Ministry of Economy or through the Diia portal remained valid for the period for which they were granted, but no longer than 28 February 2025. This means that even if the deferral was supposed to be longer, it will automatically expire on 28 February 2025.

According to clause 7 of Resolution No. 1332, changes to the reservation rules, specifically the requirement that all employers who currently hold such status confirm their status as a critical enterprise, institution, or organization within three months, could result in a significant increase in the number of applications to the relevant authorities responsible for determining employers as critical for reservation purposes. This would put additional strain on the system and possibly slow down the process for

employers to obtain such status, making it impossible to rebook the aforementioned employees in a timely manner.

Secondly, the cancellation of reservations for persons liable for military service who have deferrals may have a negative impact on the operation of enterprises and organisations, especially in areas where there is a shortage of staff.

💡 Proposed changes: We propose to extend the period of validity of the deferrals for employees liable for military service reserved by employers beyond 28 February 2025, as this factor is crucial for the functioning of the economy and the livelihood of the population during the special period, and to extend the said period, as well as the period for employers to re-confirm their critical status.

1.2 ISSUES OF INFORMING ABOUT THE CLARIFICATION OF EMPLOYEE DATA AS PART OF THE RESERVING USING THE DIIA PORTAL


! Current problem: According to clause 2 of Section II "Final and Transitional Provisions" of Law of Ukraine No. 3633-IX dated 11 April 2024 "On Amendments to Certain Legislative Acts of Ukraine on Certain Issues of Military Service, Mobilization and Military Registration," employers are reportedly no longer able to reserve individuals liable

for military service who have not updated their data. According to this condition, the data should have been updated by July 16, 2024, raising the question of whether it will be feasible to book an employee who did not update his/her data on time for various reasons but did so later than the deadline, resulting in a fine. If an


employee updated his/her data after 16 July 2024 and followed all procedures and, in particular, was brought to administrative responsibility, but due to the innovations, he/she cannot get a booking, even though he/she actually meets all the conditions, we believe this will create a discriminatory situation.

We consider this requirement excessive, as it may be difficult to determine such a date - for example, if an employee updated their data on time, but after 16 July 2024 had changes in their data and updated/clarified them again - it is unclear which date will be taken into account in this case, since, for example, the extract from Reserve+ or the Diia Portal will indicate the latest date of data clarification.


Also, in practice, persons who have updated their data through Territorial Centres of Recruitment and Social Support (TCRSS) may not have any documentary evidence of the specific date of updating their data, or information on their data updates may not be entered into the relevant databases in a timely manner due to inaction by TCRSS's representatives.

 **Proposed changes:** It is recommended to cancel/ revoke the rule establishing the confirmation of fulfilment of the obligation to clarify the data by 16 July 2024 as one of the criteria for granting a reservation.


1.3 DEFINING NEW PROFILE CRITERIA

 **Current problem:** On 23 November 2024, certain provisions of Resolution No. 1332 came into force. In particular, by 3 December 2024, central executive authorities, other state authorities, public administration bodies with jurisdiction over the entire territory of Ukraine, and regional military administrations must ensure that the criteria for determining enterprises, institutions, and organisations that are important for the national economy or for meeting the needs of the territorial community, as specified in subparagraph 4 of paragraph 2 of the Criteria and Procedure approved by CMU Resolution No. 76 of 27 January 2023, are established.

In practice, this means that the process of recognising enterprises, institutions and organisations as critical according to the new criteria may be delayed, as the review of decisions on determining employers as critical to the functioning and vital activity of the population during a special period within the stipulated three-month period is possible only if the relevant authorities update the criteria in a timely manner, which may be delayed.

 **Proposed changes:** It is recommended to extend the period for reviewing decisions on designation of enterprises, institutions and organisations as critical.

1.4 THE STATUS OF A CRITICAL ENTERPRISE FOR CARRIERS

 **Current problem:** Prior to the entry into force of Resolution No. 1332, carriers, including passenger and freight carriers, which carried out their main business activities under CEA 49.31, 49.39, 49.41, were able to obtain the status of a critical enterprise if they met only two criteria choose from, and the salary criterion was not mandatory. Currently, such enterprises still have to meet only two criteria, but now they have essentially no choice in the criteria and must meet both the updated salary criterion and the criterion of not having tax and unified social contribution arrears.

Starting from 1 December 2024, the aforementioned employers may face problems booking their employees due to the potential cancellation of their criticality status due to the presence of three mandatory criteria. We would like to draw your attention to the fact that two

mandatory criteria are now set for private enterprises: the salary criterion and the absence of arrears in the payment of taxes to the state and local budgets and the unified social contribution. In addition, the accrued average salary in the company for the last calendar quarter must be at least 2.5 times the minimum wage (UAH 20 thousand as of 1 December 2024). The employee being booked must also have an accrued salary of at least UAH 20 thousand.

Given the peculiarities of carriers' operations (irregularity of transportation, possible part-time employment of employees), such enterprises may lose the opportunity to be designated as critical due to the inability to meet the updated salary criterion. This may be most noticeable for enterprises with a large number of employees, where the average indicator may "sag", as

not all employees can objectively receive high salaries, and part of the staff may be on sick leave, on vacation (including unpaid leave), or engaged in part-time work with proportional pay, etc., which also directly affects the average indicator.



Proposed changes: Proposed changes: Given the special need for both transport and freight transportation under martial law and the large flow of people, the cancellation of the critical status of these enterprises may cause real transport problems, as well as those related to the functioning of other enterprises important for the life of the population and the economy, which risk not receiving the goods/raw materials or personnel necessary for production, and therefore it is **recommended** to cancel the mandatory salary criterion for enterprises whose main activity is freight or passenger transportation.

2 Position on the main problematic issues related to mobilization and reservation of employees liable for military service

2.1. SUDDEN STOP OF THE RESERVATION PROCESS FOR THE PERIOD UNTIL NOVEMBER 15, 2024.



Current problem: On October 20, 2024, the procedure for both electronic reservation of critical personnel of enterprises through the Diia Portal in accordance with the Cabinet of Ministers of Ukraine (CMU) Resolution No. 650 of June 05, 2024, and the issuance of orders of the Ministry of Economy on reservation for those enterprises that applied for reservation through the paper procedure in accordance with the Procedure approved by the CMU Resolution No. 76 of January 27, 2023, were suddenly suspended.

This was probably due to the protocol decision of the Cabinet of Ministers of Ukraine No. 103 of October 08, 2024 on the audit of decisions made to determine enterprises, institutions, and organizations as critical to the functioning of the economy and ensuring the livelihoods of the population during a special period. However, the said protocol decision provides for “suspension until November 15, 2024 of the provisions of the Criteria and Procedure for Determining Enterprises, Institutions and Organizations Critical to the Functioning of the Economy and the Life of the Population in a Special Period, as well as Critical to Meeting the Needs of the Armed Forces and Other Military Formations in a Special Period, approved by the Resolution of the Cabinet of Ministers of Ukraine of January 27, 2023 No. 76”, however, does not provide for the suspension of the reservation process.

In addition, employers whose status of a critical enterprise, institution, organization for the functioning of the economy and ensuring the vital activity of the population during the special period expires after October 8, 2024, have now effectively lost the opportunity to extend (re-reserve) the reservation of their key employees until the procedure for granting such status is renewed (until November 15, 2024).



Proposed changes: we propose to restore the possibility of electronic reservation of critical employees through the Diia Portal and to extend the validity of the deferrals granted to employees subject to military service reserved by employers who have lost the opportunity to renew the status of a critical enterprise, institution, organization for the functioning of the economy and ensuring the vital activity of the population during the special period - for the period of the relevant audit and the time required to renew the status granted in accordance with the previously submitted

2.2. MOBILIZATION CALLS DURING THE VALIDITY PERIOD OF THE RESERVATION OR IN THE PROCESS OF CLARIFYING/UPDATING DATA

! Current problem: Under the current conditions, there is a risk of immediate mobilization of critical employees for the enterprise, as reservations are issued for a statutory period, and to extend the reservation for the next term, a certain amount of time may pass, during which the employee liable for military service may be mobilized and no longer be subject to the reservation.

In practice, employers often face situations where reserved employees are served with a draft (so-called “conscription”) notice with a mobilization date the day after the reservation expires during the validity period of their reservation. Accordingly, employers, in accordance with the established procedure, are physically deprived of the opportunity to extend the reservation of such employees either under the Procedure for Reservation of Persons Liable for Military Service during Martial Law, approved by the CMU Resolution No. 76 of January 27, 2023 (as consideration of such requests may take several months), nor through the Diia Portal (as the application process currently takes up to 72 hours, during which time the employee's status may already be changed from “person liable for military service” to “military personnel”, in which case the reservation through the Diia Portal will be denied). Such a situation may lead to a complete loss of staff that the company has identified as critical to the company's operation and planned to reserve within the quota during the special period.

A similar situation is observed when a person liable for military service attempts to clarify his data. From time to time, there is a need to clarify the data for one reason or another (the need to undergo a preliminary military examination once a year, etc.). Despite the fact that the

company provides such an employee with a cover letter stating that the employee is critical and the company plans to reserve him within the quota, such letters are usually not taken into account by the Territorial Centres of Recruitment and Social Support (TCRSS) and the employee is mobilized.

Therefore, in practice, an enterprise that is critical to the functioning of the economy and the livelihoods of the population during a special period de jure has the right to reserve critical employees within the quota, but de facto cannot exercise this right.



Proposed changes: It is recommended to establish a temporary period of “protection” for employees who are in the process of updating their reservation data or extending their reservation (for the Diia Portal, this period could be + one week to the date of completion of the previous reservation), as well as to prohibit the delivery of mobilization (so-called military) summonses during the reservation period, which will allow the employer to complete the necessary procedures without risking the loss of its key personnel and ensuring the continuous operation of the enterprise.

2.3. ANNULMENT/CANCELLATION OF A RESERVATION

! Current problem: There is an urgent problem regarding the possibility for an enterprise to cancel a reservation (the so-called “dereservation”) using the Diia Portal, as there is currently no technical and legal possibility to perform such actions, and data from the Pension Fund of Ukraine is not always timely and/or correctly reflected in the Oberig system.

This issue is relevant given that the status of a reserved employee may change during the term of his reservation - the employee may be dismissed, have another legal basis for a deferral, or the employee's position may no longer be critical to the employer. Accordingly, employers should be able to manage the reservations provided and be able to quickly cancel a particular reservation if there are reasons and grounds for doing so.

Currently, the mechanism for canceling is provided only for reservations made in accordance with the Procedure

for Reservation of Persons Liable for Military Service during Martial Law, approved by the CMU Resolution No. 76 dated January 27, 2023 (which does not apply to reservations made through the Diia Portal), but even under this procedure, employers wait for a long time for the consideration of relevant requests from the Ministry of Economy or do not receive a response to such requests at all and employees remain reserved if there are/are not grounds for this.



Proposed changes: It is recommended to expand the functionality of the Diia Portal by creating a mechanism for canceling/revoking the current reservation by the employer, indicating the grounds for such action.

2.4. ISSUES RELATED TO INFORMING ABOUT THE CLARIFICATION OF EMPLOYEES' DATA AS PART OF THE RESERVATION THROUGH THE DIIA PORTAL

! Current problem: In accordance with the current version of the CMU Resolution No. 650 of June 05, 2024, as amended on October 1, 2024, which approved the rules for reservation of employees liable for military service through the Diia Portal, employers can no longer reserve employees liable for military service who have not updated their data in accordance with paragraph 2 of Section II "Final and Transitional Provisions" of the Law of Ukraine of April 11, 2024 No. 3633-IX "On Amendments to Certain Legislative Acts of Ukraine on Certain Issues of Military Service, Mobilization and Military Registration".

According to this clause, the data should have been updated by July 16, 2024, and therefore the question arises as to whether it will be possible to reserve an employee who did not update his/her data on time for certain reasons, but did so later than the deadline, paying a fine? If an employee updated his data after July 16, 2024 and followed all procedures and, in particular, was brought to administrative responsibility, but due to the innovations, he cannot get a reservation, although he actually meets all the conditions, in our opinion, this will create a discriminatory system.

In addition, the amendments require the employer to indicate the date of the employee's clarification of his

or her data when forming the list for reservation. At the same time, we consider such a requirement excessive, as it may be difficult to determine such a date - for example, if an employee updated their data on time, but after July 16, 2024, had changes in their data and updated/clarified them again - it is unclear which date to indicate in this case, because, for example, the extract from Reserve+ or the Diia Portal will indicate the last date of data clarification.

Also, in practice, persons who have updated their data through the Territorial Centres of Recruitment and Social Support (TCRSS) may not have any documentary evidence of the specific date of updating their data.



Proposed changes: It is recommended to cancel/ revoke the rule establishing confirmation of fulfillment of the obligation to update data by July 16, 2024 as one of the criteria for granting a reservation. In our opinion, it is sufficient to provide a confirmation that the person liable for military service has already updated his/her data without specifying the date of such update and has up-to-date information as of the date of submission of the reservation application.

2.5. REPORTING ON RESERVED EMPLOYEES

! Current problem: Enterprises, institutions and organizations are obliged to prepare a quarterly report on the number of persons liable for military service who are reserved in accordance with the Procedure for Reservation of Persons Liable for Military Service during Martial Law, approved by the CMU Resolution No. 76 of January 27, 2023, in the form in Annex 6 to the said Procedure.

In this report, the column "Number of persons liable for military service who are reserved" indicates the number of persons liable for military service who have been issued an extract from the order of the Ministry of Economy on the reservation of persons liable for military service. Since the issuance of extracts from the order of the Ministry of Economy is not provided for when reservation through the Diia Portal (according to the Procedure approved by the CMU Resolution No. 650 of June 05, 2024) and the CMU Resolution No. 650 also does not provide for reporting, the relevant data on reservations through the Diia Portal are not included in the said report.

At the same time, in practice, there is often confusion about the correct reflection of the number of persons liable for military service who are reserved for the employer, especially in cases where there is a "duplication" of reservation (there are many cases when employers,

without waiting for the order of the Ministry of Economy on reservation due to the length of such a procedure, reserved employees using the Diia Portal, applied to the relevant authorities with a request to withdraw the request for reservation under the order of the Ministry of Economy, but eventually still received an order from the Ministry of Economy to reserve the same employees - and, as noted above, the procedure for canceling/revoking a reservation under the order of the Ministry of Economy in practice takes a long time and may not ultimately yield the expected result). Accordingly, the authorities may end up receiving inaccurate information on the reservation of workers by such employers, in particular, information on the alleged excess of the reservation quota (due to the aforementioned "duplication"), although in fact there may be no such excess.



Suggested changes: It is recommended to improve the form of the report and to provide for the technical possibility of reporting separately on 1) the number of persons liable for military service reserved by order of the Ministry of Economy, and 2) the number of persons liable for military service reserved through the Diia Portal - as separate lines in the said report.

3 Improvement of Military Registration and Electronic Reservation Mechanisms

3.1. ABOLITION OF MILITARY REGISTRATION AT ENTERPRISES

Currently, the military registration system "Oberig" receives information regarding conscripts from relevant state registers, including the database of the Pension Fund. Accordingly, maintaining military records at enterprises partially duplicates this process and involves a significant volume of paperwork. Thus, the obligation for enterprises to maintain military records and reconcile lists with Territorial Recruitment and Social Support Centers (hereinafter referred to as TRSSCs) imposes a significant bureaucratic and administrative burden on both businesses and the state, and seems

unreasonable in the context of the digitalization of processes.

In this regard, we propose considering the possibility of abolishing the Cabinet of Ministers of Ukraine's Resolution "On Approval of the Procedure for Organizing and Maintaining Military Records of Conscripts, Reservists, and Those Liable for Military Service" No. 1487 dated December 30, 2022, and making corresponding amendments to other normative legal acts.

3.2. REGARDING ELECTRONIC RESERVATION:

3.2.1. Launch of Automatic Generation of Reservation Extracts on the Diia Portal

In practice, the State Border Guard Service of Ukraine and TRSSCs require the presentation of a reservation extract for conscripts. Currently, the Diia portal does not generate such an extract, creating obstacles for employees' foreign business trips and their daily work tasks.

Therefore, we request the prompt implementation of the function for the automatic generation of reservation extracts on the Diia portal, as stipulated in Paragraph 23 of the Procedure for Reserving Conscripts During Martial Law by Means of the Unified State Web Portal of Electronic Services, approved by Cabinet of Ministers Resolution No. 650 dated June 5, 2024.

3.2.2. Inclusion of All Reservation Orders and Automatic Reservation Extensions in the Diia Portal Database

According to business representatives, there are frequent cases where reservations for conscripts, made in accordance with the Cabinet of Ministers Resolution "Some Issues of Implementing the Provisions of the Law of Ukraine 'On Mobilization Preparation and Mobilization' Concerning the Reservation of Conscripts for the Period of Mobilization and Wartime" No. 76 dated January 27, 2023, and approved by relevant orders of the Ministry of Economy of Ukraine, are not reflected in the Reserve+ application.

Alternatively, in cases where the reservation information is displayed in the Reserve+ application, there is no information about the automatic extension of this reservation for three (3) months. This situation adversely affects the uninterrupted operation of enterprises due to the risk of mobilizing reserved employees who are critically important for their functioning.

3.2.3. Deregistration of Conscripts

According to Paragraph 13 of the Procedure, "<..> the cancellation of the deferral is carried out by decision of the Ministry of Economy on the basis of a substantiated submission from a state authority, another state body, local self-government body, enterprise, institution, or organization...>".


However, in practice, such decisions of the Ministry of Economy are issued with significant delays, which does not allow enterprises to timely cancel the reservation of


conscripts, for example, in the event of an employee's dismissal, and to correctly calculate the quota for reservations. Consequently, in such cases, the release of quotas for other employees of the enterprise is impossible, and the Diia portal displays an incomplete/incorrect quota for reservations.

In this regard, we request ensuring the technical capability for reservations to be managed by the enterprise manager through the Diia portal.

4 TRAVEL RESTRICTIONS

4.1. ENABLING INTERNATIONAL TRAVEL FOR BUSINESS PURPOSES


 **Issue:** The current restrictions prevent men aged 18-60 from travelling abroad, significantly hampering international business operations and engagements. This restriction adversely affects the ability of businesses to maintain global relations, secure investments, and participate in international conferences and negotiations.

 **Proposal:** We recommend that men engaged in international business affairs be permitted to travel abroad, provided they obtain proper verification from their employers. This flexibility is crucial for sustaining global business relations, attending international events, and securing foreign investments, all of which are vital for the economic resilience and growth of Ukraine. To ensure that this mechanism works, we recommend that a clear and explicit set of documents and requirements be established for men going on a business trip abroad, which would not change from one border-crossing point to another.

AHK Ukraine urges the Ministry of Economy of Ukraine to consider these proposed changes to employee reservation, vehicle regulation policies, and travel restrictions. These adjustments are crucial for maintaining the operational stability of businesses while supporting Ukraine's national defense efforts. We are ready to collaborate on drafting detailed legislative proposals and engage in further discussions to refine these suggestions.

5 VEHICLE REGULATIONS

5.1 CLARIFYING THE CONCEPT OF VEHICLES FOR MILITARY MANNING

 **Issue:** The current regulatory framework categorizes all company vehicles as intended for military use, imposing stringent restrictions on their movement and disposal. This broad categorization hampers business logistics, creating operational inefficiencies and unnecessary burdens on enterprises.

 **Proposals:**

Option 1 (Priority): We recommend that the concept of 'vehicles intended for manning the Armed Forces of Ukraine' be explicitly defined to include only those vehicles for which there is a formal order for withdrawal. This clarification would allow businesses to operate their remaining fleet without undue restrictions, thereby enhancing logistical efficiency.

Option 2 (Alternative): As an alternative measure, we propose that enterprises be required to notify the Military Center of the planned vehicle movements within Ukraine. This notification should be submitted once, with updates required only if the list of regions changes. This approach would maintain necessary oversight while significantly reducing bureaucratic hurdles and enhancing operational efficiency.

5.2 ESTABLISHING TRANSPARENT PROCEDURES OF VEHICLE MOVEMENT WITHIN UKRAINE AND ABROAD

Issue: The broad and vague restrictions on vehicle movement between Ukrainian regions (oblasts) and abroad under the current regulatory framework increase the risk of corruption in obtaining necessary permissions. For example, using a company car to travel between different regions of Ukraine is a usual part of the job description for sales representatives who otherwise can't fulfil their duties. This creates an opaque and unpredictable operational environment for businesses.

Change: We recommend that transparent procedures and clear guidelines be established for vehicle movement and disposal notifications to the Military Center, permitting free vehicle movement if required for certain job functions. Such measures would ensure a fair and consistent application of the rules, thereby, mitigating corruption risks and fostering a more predictable business environment.

6 EMPLOYEE RESERVATION AND MILITARY REGISTRATION POLICIES

6.1 REVIEWING THE QUOTA FOR RESERVING EMPLOYEES

Current Issue: Existing legislation allows enterprises to reserve only up to 50% of their conscripted employees. This limitation significantly narrows operational activities, as companies find themselves severely restricted in their ability to re-reserve personnel after initial reservations (since the total number of conscripted employees can potentially decrease over time due to the mobilization of those who were not initially reserved). Consequently, this leads to a critical shortage of workforce, negatively affecting the continuity and efficiency of business operations.

Proposed Changes: It is recommended to amend the legislative norms to allow enterprises to reserve 50% of the total number of both conscripted employees and those already mobilized (currently, the 50% quota is determined solely based on conscripted employees and does not include those already mobilized). This proposed adjustment is crucial to ensure that businesses can retain a sufficient number of necessary personnel to maintain uninterrupted operations and effectively contribute to the economic stability of the country.


6.2 INTRODUCING ECONOMIC RESERVATION


Issue: The existing framework for employee reservation does not sufficiently consider the economic imperative of retaining key personnel. This oversight limits the capacity of businesses to prioritize and secure critical roles that are essential for maintaining economic stability and fostering growth.

Proposal: We recommend that an economic reservation category be established, which would permit businesses to reserve additional (as compared to the existing 50% quota personnel deemed critical for their operations regardless of their military specialization. This would include a mechanism allowing businesses to pay for supplementary reservations. Such a provision would enable companies to retain indispensable employees, thereby ensuring continuity in critical operations and contributing to the broader economic stability during these challenging times.


This policy would be subject to strict regulatory oversight to prevent misuse and ensure alignment with national defense priorities.


6.3 IMPLEMENTATION OF MECHANISMS FOR MONITORING COMPLIANCE WITH THE DEADLINES FOR CONSIDERATION OF AN APPLICATION FOR THE RESERVATION OF EMPLOYEES

 **Issue:** Currently, although the deadlines for consideration of applications for the reservation of employees are clearly defined by legislation, they are often not observed by the authorities and there are long-term delays, which makes it difficult for employers to exercise their right to reserve workers within the predicted time frames.

 **Proposal:** We propose to establish mechanisms of control over compliance with deadlines for consideration of requests for employee reservations and introduce the technical possibility of electronic reservations as soon as possible (using the Diia portal).

6.4 INDIVIDUAL EMPLOYEE REJECTION HANDLING

 **Issue:** If the Ministry of Defense of Ukraine or General Staff rejects a reservation request, the entire list of proposed employees is rejected without any comment.

 **Proposal:** Only the individual employee who is affected should be rejected, with a clear explanation of the reasons. This approach ensures that the rest of the reservation list is processed without unnecessary delays and uncertainties.