

Mobilisation law status of the clergy under the martial law legal regime in Ukraine

Status prawnego duchownych w świetle ustawy mobilizacyjnej podczas stanu wojennego na Ukrainie

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Abstract: This article analyses the mobilisation law status of the clergy in Ukraine during the period of martial law. In the fourth year of the full-scale war in Ukraine, the regulatory framework that defines the procedure for the fulfilment of military duty by clergy is still being developed. However, at present, depending on age, health status, affiliation with specific religious organisations, education and personal desire, the mobilisation status of different members of the clergy may vary. Therefore, based on common characteristics, this article identifies several areas for the implementation of such mobilisation status. These include alternative (non-military) service for clergy belonging to religious organisations whose beliefs prohibit the use of weapons, chaplaincy service, issuing of clergy reservation and basic military training for students at higher educational institutions established by religious organisations. In addition to academic sources, this study also examines normative acts, individual decisions of the European Court of Human Rights and national courts, the *amicus curiae* brief by the Venice Commission and information from statistical sources and mass media.

Key words: mobilisation; clergy; alternative (non-military) service; reservation; chaplain service

Streszczenie: Artykuł stanowi analizę statusu prawnego duchownych w świetle ustawy mobilizacyjnej podczas stanu wojennego na Ukrainie. W czwartym roku pełnoskalowej wojny na Ukrainie nadal kształtowane są ramy prawne regulujące sposób realizacji obowiązku wojskowego przez osoby duchowne. Obecnie jednak – w zależności od wieku, stanu zdrowia, przynależności do określonych wspólnot wyznaniowych, poziomu wykształcenia oraz osobistych przekonań – status mobilizacyjny duchownych może się znaczco różnić. W związku z tym artykuł identyfikuje, na podstawie wspólnych cech, kilka możliwych form realizacji obowiązku mobilizacyjnego przez duchownych. W szczególności obejmują one: służby zastępczą (niemilitarną) dla przedstawicieli wspólnot religijnych, których doktryna zabrania użycia broni; posługę kapelańską; przenoszenie duchownych do rezerwy (czyli ich wyłączenia spod obowiązku mobilizacji), a także podstawowe szkolenie wojskowe dla studentów uczelni wyższych prowadzonych przez organizacje religijne. Poza literaturą naukową, w artykule przeanalizowano również aktory normatywne, indywidualne orzeczenia Europejskiego Trybunału Praw Człowieka oraz sądów krajowych, opinię *amicus curiae* Komisji Weneckiej, a także dane statystyczne i informacje pochodzące ze środków masowego przekazu.

Słowa kluczowe: mobilizacja; duchowieństwo; służba zastępcza (niemilitarna); rezerwa; służba kapelańska

Introduction

Today, in Ukraine, during a protracted full-scale war and the operation of the legal regime of martial law, certain groups of norms and legal institutions aimed at ensuring national security, repelling aggressive military invasion and supporting vital areas of public life

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have acquired special importance and relevance in establishing law and order. This time has also given rise to new legal concepts and categories, including the “mobilisation status of a person.” This term refers to the legal status of an individual regarding their ability to be involved in military duty under conditions of mobilisation, specifically during martial law. It determines whether a person is subject to mobilisation, what their role is in the state defence system and whether they have grounds for deferment or exemption from military service. Mobilisation status is a key element in the functioning of the general army registration system. It is a dynamic feature of a person and depends on a network of medical, social, legal and professional factors, such as age and gender characteristics (men aged 25–60 are subject to conscription during mobilisation), health status (suitability for military service is established based on a person’s medical examination and the decision of the relevant commission), general legal status of the person (persons with a conviction for certain types of criminal offences and criminal proceedings initiated cannot enter military service), family circumstances (having three or more children, supporting persons with disabilities, etc., gives the right to postponement or exemption from mobilisation), education and professional training (certain specialities, experience of military service, participation in combat operations, etc., are crucial for determining the priority of mobilisation) and employment (persons working at critical infrastructure facilities or in certain areas, or in certain positions, can receive a reservation and be exempted from mobilisation).

A separate regulation was provided for the mobilisation status of clergy – persons who, according to the Classifier of Professions in Ukraine ДК 003:2010, belong to category 2460 “Professionals in the field of religion”: priest, pastor, presbyter, deacon, rabbi, mashgiach kashrut, moel, sofer, imam and mullah, and category 1144 “Heads of religious organisations”: primate, patriarch, supreme archbishop, metropolitan, chief rabbi, supreme mufti, senior bishop, senior presbyter, archbishop, metropolitan, rabbi, mufti, bishop, sheikh, prior, governor, abbot, parish priest, administrator, pastor, presbyter, rabbi and imam.

However, as different clergymen are representatives of different churches and religious movements, even such a seemingly homogeneous social group as “clergymen” is subject to different norms, which determine the differences in their mobilisation status. This article examines this issue to substantiate the mobilisation status of clergymen in Ukraine and to establish the signs and characteristics that affect such status.

1. Alternative service

Before the introduction of martial law, alternative service was the only real opportunity for individuals for whom military service contradicted their religious beliefs to fulfil their public duty by replacing military service with non-military service. In Ukrainian law, this form of fulfilling public duty is called “alternative (non-military) service”; it is not a privilege or an additional benefit but a way of fulfilling a duty to society.

It is noteworthy that the Law on Alternative (Non-Military) Service in Ukraine was adopted in 1991, the year when Ukraine had just gained independence and did not yet

have its own current Constitution. The initial version of the law provided the possibility of replacing all types of military service with alternative service. However, in 1999, amendments were made to the relevant law that narrowed the possibilities of alternative service. Since then, the law has been formulated in such a way that it allows only compulsory military service to be replaced with alternative service. Moreover, the provisions of the law are not applicable to all clergy but only to individual religious organisations, and in conditions of war or a state of emergency, restrictions on the right of citizens to undergo alternative service may be established but without a specific indication of what restrictions.

The Constitution of Ukraine was adopted in 1996 and established that no one may be exempted from their duties to the state or refuse to comply with the laws on the grounds of religious beliefs. If the performance of military duty contradicts the religious beliefs of a citizen, the performance of this duty must be replaced by alternative (non-military) service (Part 4, Article 35 of the Constitution). That is, the right of a citizen to replace military duty with alternative (non-military) service is enshrined at the level of constitutional regulation, which is not the case in the constitutions of many modern states.¹ Moreover, a literal interpretation of the constitutional provisions suggests that they refer to the possibility of replacing military duty in all its forms and not just conscription, unlike the constructions of the relevant law. For a long time, such a discrepancy between the Constitution and special legislation did not cause significant public or legal resonance. This was due to the fact that a situation of martial law or full-scale war was not envisaged, and conscription for military service remained the only form of “involuntary” performance of military duty. Judicial practice in this area was also virtually absent.

Until 2022, the only “problematic” issue discussed was the question of which religious beliefs of a citizen could justify replacing military duty with alternative service. In this aspect, the Law on Alternative (Non-Military) Service in Ukraine in Article 2 determines that citizens of Ukraine have the right to alternative service if the performance of military duty contradicts their religious beliefs, and that these citizens belong to active religious organisations whose beliefs do not allow the use of weapons. To implement this legislative provision, the Resolution of the Cabinet of Ministers of Ukraine dated 10 November 1999, No. 2066 approved a list of religious organisations whose beliefs do not allow the use of weapons. This exceptional list includes Adventist-Reformists, Seventh-day Adventists, Evangelicals, Evangelical Baptists, Pokutnyky, Jehovah’s Witnesses, Charismatic Christian Churches (and churches equated to them by registered statutes), Ukrainian Pentecostal Church (and churches equated to them by registered statutes), Christians of the Evangelical Faith and the Society for Krishna Consciousness. However, it should be noted that the law links the emergence of the right to replace military service to membership in “active religious organisations whose beliefs do not allow the use of weapons,” and not with membership in organisations established by the government. Therefore, we again emphasise the position that we have already expressed on the pages of a scientific publication² that, in this case, the provision of the resolution narrows the content and scope of

¹ Pyroha, Bielova, Fridmanska 2025a, 205.

² Bilash, Karabin, Selivanov 2022, 16.

the right, and the list of religious movements whose beliefs do not allow the use of weapons should serve only as a guideline for executive authorities when making a decision in the specific case under consideration.

In the current Ukrainian conditions of full-scale war, the situation with alternative service has changed radically. As the constitutional provisions do not determine the type of military service that can be replaced, the question arises of the possibility of replacing military service with alternative service during mobilisation under martial law. In recent years, Ukrainian courts have begun to consider cases related to the evasion of military duty,³ with both acquittals and convictions of persons whose religion prohibits the use of weapons.⁴ This, in turn, has changed the focus of research, highlighting the need to rethink and update legal regulations in this area. The main questions that have not yet received a clear answer are whether the provisions of the Constitution of Ukraine, which define the right of everyone to freedom of opinion and religion, guarantee the right to refuse military service for reasons of conscience (in particular, for religious beliefs). The courts also try to explain in their decisions how the term “military duty” should be understood, taking into account the provisions on the constitutional duty of citizens to defend the Fatherland, independence and territorial integrity of Ukraine and how it is possible to ensure that a citizen fulfils the specified constitutional duty under martial law if the performance of military duty contradicts their religious beliefs.

The Supreme Court, in its Resolution of 2 May 2024 in case No. 344/12021/22, formulated the following conclusion in the relevant issues that in special conditions (e.g. the fact of war itself, the need to properly man the Armed Forces and high risks of unscrupulous behaviour of individuals to evade mobilisation⁵), achieving a fair balance between the human right in terms of the possibility of conscientious refusal of military service and the interests of protecting the sovereignty, territorial integrity of Ukraine and the rights and freedoms of other persons requires ensuring an objective verification of a person's statements about the incompatibility of their religious beliefs with military service and confirmation by evidence of the presence of relevant religious beliefs. The court again emphasised that alternative service is introduced instead of compulsory military service, to which citizens specified in Article 15 of the Law of Ukraine on Military Duty and Military Service aged 18–25 are called up. The Law does not provide for the possibility of replacing military service by conscription in the specified manner during mobilisation for a special period. Such conclusions were supported by the Supreme Court in other resolutions adopted after the cited resolution. The Court also drew attention to the fact that the European Convention on Human Rights (ECHR) did not state in its decisions the inconsistency of this Law with the requirements of the Convention, and that the compliance/inconsistency of laws with the Constitution of Ukraine falls within the competence of the Constitutional Court of Ukraine, and not the Supreme Court (§ 34).

³ The Criminal Code of Ukraine provides that evasion of military service during mobilisation, for a special period, or military service upon conscription of persons from among reservists during a special period is punishable by imprisonment for a term of three to five years (Article 336 of the Criminal Code of Ukraine).

⁴ Pyroha, Bielova, Fridmanska 2025b, 351.

⁵ Sergienko, Babiak 2025, 241.

Incidentally, similar cases considered by the ECHR are unlikely to apply to Ukraine because they concern either cases in which the state does not provide for the possibility of alternative service at all (ECHR Decision *Mushfig Mammadov and Others v. Azerbaijan*, App. No. 14604/182)⁶ or cases when alternative civilian service is not a real alternative, as it is part of the military structure within the framework of direct military command, and conscripts are in all cases “servicemen on conscription” (ECHR Decision *Telyatnikov v. Lithuania*, App. No. 51914/19). Regarding the restriction of the right to alternative service, the court has clearly indicated that such restrictions may exist but are justified not only by reference to “urgent social needs” (*Bayatyan v. Armenia* No. 23459/03, 7.07.2011, § 123) and that the state’s refusal to recognise a person as a conscientious objector must, in each case, be justified and not arbitrary (*Diaghilev v. Russia*).

Currently, the Constitutional Court of Ukraine is considering a constitutional complaint by Mr. Zelinsky D.B., in the course of which the court must decide whether the provisions of the Law on Alternative (Non-Military) Service, which limits the right to alternative service to only conscript service, comply with the Constitution of Ukraine. It is interesting in this regard that the acting chairman of the Constitutional Court of Ukraine requested an *amicus curiae* brief of the Venice Commission on the matter of alternative (non-military) service. Such a document was received and made public,⁷ but it did not provide clear answers. Thus, the Venice Commission, in an *amicus curiae* brief, concluded the following:

Article 9 of the European Convention on Human Rights (ECHR) and Article 18 of the International Covenant on Civil and Political Rights (ICCPR), relating to freedom of thought, conscience and religion, guarantee the right to conscientious objection; Conscientious objection is based on religious or other convictions comprising, in particular, a firm, permanent and sincere objection to any involvement in war or the bearing of arms; States may require some level of substantiation of genuine belief; Under the ECHR, restrictions on the right to conscientious objection must be clearly provided for by law, pursue a legitimate aim, and be strictly limited to what is demonstrably necessary for the fulfilment of the legitimate aim pursued, and proportionate to this aim; Under the ECHR – but not under the ICCPR – derogations to the right to conscientious objection are possible, but only to the extent strictly required by the exigencies of the situation; Under the ECHR as well as under the ICCPR, States have the positive obligation to set up a system of alternative service which must be separated from the military system, shall not be of a punitive nature and remain within reasonable time limits. Access to alternative service must be non-discriminatory and submitted to fair and transparent mechanisms.

The Venice Commission considers that the very nature of conscientious objection implies that it cannot be fully excluded in time of war, albeit States have a limited margin of appreciation, especially in the case of a general mobilisation. However, it appears to the Venice Commission that under no circumstances may a conscientious objector to military service be obliged to bear or use arms, even in self-defence of the country.

⁶ European Court of Human Rights, *Mushfig Mammadov and Others v. Azerbaijan*, No. 14604/18, judgment of 17 October 2019, HUDOC, <https://hudoc.echr.coe.int/eng?i=001-197066> [accessed: 30 June 2025].

⁷ Venice Commission, *Amicus Curiae Brief on Alternative (NonMilitary) Service*, CDLAD(2025)006e, adopted by the 142nd Plenary Session (Venice, 14–15 March 2025), Council of Europe, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)006-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)006-e) [accessed: 30 June 2025].

At the same time, the Venice Commission remains at the disposal of the Constitutional Court of Ukraine for further assistance in this matter. Thus, the only action that can bring legal certainty to this issue is the future decision of the Constitutional Court of Ukraine.

2. Mobilisation and reservation

As the possibility of using the alternative service option is potentially permissible for clergymen of certain churches and in special emergency conditions, such opportunities are limited. This subsection discusses the opportunities conditioned by martial law.

The analysis begins with the fact that on 24 February 2022, on the day of the Russian Federation's invasion of Ukraine, the President of Ukraine issued a number of decrees, including the Decree on the introduction of martial law in Ukraine No. 64/2022 and the Decree on general mobilisation No. 69/2022. Among a number of mobilisation measures, the Decree No. 69/2022 also provides for the conduct of conscription – that is, the sending of conscripts and reservists to military service.

According to the general rule of the Law on Military Duty and Military Service dated 25 March 1992, No. 2232-XII, conscripts are citizens who are in reserve to man the Armed Forces of Ukraine for a special period and to perform work to ensure the defence of the state, if they are suitable for it by health, age and other criteria. In peacetime, conscripts are subject to mobilisation registration and may be called up for training camps. They do not perform active military service but are required to appear upon summons to authorised administrative bodies to clarify their registration data, undergo medical examinations and so on.

In wartime (after the declaration of martial law and mobilisation), the status of a conscript becomes particularly relevant. Such citizens may be mobilised into the Armed Forces of Ukraine or other military formations, and their status will change from conscripts to servicemen. The legislation provides exceptions for certain categories of persons. There are categories of citizens who are not subject to conscription, and there are those who have the right to deferment from conscription. The possibility of reserving employees by enterprises and organisations that are classified as critical for the economy or ensuring the vital activity of the population is also established.

In peacetime, priests are granted a deferment from conscription⁸ for the duration of their priestly duties. However, the beginning of a full-scale war in Ukraine equalised the mobilisation status of priests with other male persons, as the relevant profession and occupation ceased to affect their possibility of being conscripted during mobilisation and their possibility of concluding a contract for military service. Priests, regardless of religious affiliation, denomination or church, became ordinary male citizens.

In general, in conditions of war and the need to protect state sovereignty, the absolute priority goal is the mobilisation needs of the state. However, conscription for military

⁸ This benefit is currently absent, as such conscription was abolished in 2024.

service by Territorial Recruitment Centres is carried out based on the needs of the Armed Forces in a particular category of persons. Clergymen in most churches are prohibited from fighting by religious canons, and in general, there are not so many of them in quantitative terms. Accordingly, priests have become a rather dubious mobilisation resource for the state for several reasons.

Whether the state carried out a targeted call-up of priests to positions of regular military personnel, the answer here will most likely be negative. Perhaps in practice, there are isolated cases when priests volunteered for military service as recruits or soldiers. It is currently impossible to provide exact data, but such conclusions can be drawn from open sources of information, official websites of religious organisations and the media. However, even if, due to some circumstances, a priest or monk is called up to the army and enters service as a soldier, the operational command still determines his duties precisely in the moral and psychological sphere and not in the actual combat sphere.⁹ True, in the media, one can find cases of mobilisation of the clergy of a separate religious organisation, namely the Ukrainian Orthodox Church (UOC),¹⁰ and even relevant court cases.¹¹ Such cases, in our opinion, have a political basis and are a manifestation of state pressure on this particular religious organisation due to its canonical connection with the Moscow Patriarchate.

Thus, the lack of proper legal regulation was compensated for by administrative practice in the field of mobilisation. However, it is obvious that the creation of a practice without proper regulation reduces transparency and creates opportunities for abuse and even arbitrariness. Moreover, the mobilisation of military conscripts is an issue of extreme sensitivity for Ukraine. Therefore, transparency and publicity during mobilisation are among the most important¹² for fostering a positive public attitude towards it.¹³

The expected changes in legal regulation occurred only in 2024. In particular, amendments were made to the current Procedure for the Reservation of Military Conscripts, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 27 January 2023, No. 76. As a result, clergy were also included in the list of persons subject to reservation and who were granted a deferment from conscription. This same provision regulated that the reservation or cancellation of the postponement of clergy is carried out through the Diya Portal (automatically via electronic communication), according to lists formed by the State Service of Ukraine for Ethnopolitics and Freedom of Conscience (SEFC).

⁹ Istorya iyeromonakha Makariya z Volyni, yakyy ne vidmovyvsya vid povistky i stav kapelanom, <https://eleos.com.ua/istoriya-iyeromonaha-makariya-z-volyni-yakyy-ne-vidmovyvsya-vid-povistky-i-stav-kapelonom/> [accessed: 30 June 2025].

¹⁰ Svyashchennykiv na Rivnenshchyni mobilizovuyut', ale zbroyu yim ne dayut', 21.12.2024, <https://rivnepost.rv.ua/news/svyashchennikiv-mobilizovuyut-ale-zbroyu-im-ne-dayut> [accessed: 30 June 2025]; Mizh viroyu ta obov'yazkom: sytuatsiya, v yakiy opynyvsya mobilizovany otets' Ivan Polishchuk, 10.11.2024, <https://sofiyske-bratstvo.org/mizh-viroyu-ta-obovyazkom-sytuatsiya-v-yakij-opynyvsya-mobilizovanyj-otecz-ivan-polishhuk/> [accessed: 10 June 2025]; Ternopil's'ka yeparkhiya UPTS skarzhyt'sya na vykradennya i mobilizatsiyu dvokh svyashchennikiv: shcho vidpovily u TTSK, 23.06.2025, <https://informator.ua/uk/ternopilska-yeparkhiya-upc-skarzhitsya-na-vikradennya-i-mobilizaciyu-dvoh-svyashchennikiv-shcho-vidpovili-u-tck> [accessed: 25 June 2025].

¹¹ Svyashchennyk vidmovyvsya vid mobilizatsiyi cherez «matyuky na emblemakh ZSU», 20.04.2023, <https://glavcom.ua/country/society/batjushka-vidmovivsja-vid-mobilizatsiji-cherez-matjuki-na-emblemakh-zsu-921762.html> [accessed: 30 June 2025].

¹² Zinych, Burlak 2023, 349.

¹³ Melnik 2024, 381.

To understand the current regulation of the reservation of priests, three points are important: who exactly has the right to be reserved, which religious organisations can reserve their employees and the reservation procedure itself. The development of acts that determine the procedure for reserving priests was carried out only in 2025. In accordance with the government resolution, the State Service of Ukraine for Ethnopolitics and Freedom of Conscience approved both the Criteria for Determining a Religious Organisation as Critically Important for the Functioning of the Economy and Ensuring the Vitality of the Population in a Special Period and the List of Positions of Military-Conscripted Clergy Subject to Reservation for the Period of Mobilisation and in Wartime (Order No. H-21/11 of 5 February 2025).

To answer the question of *who can be reserved*, it is necessary to explain who is a priest in the legal sense. The need for a normative definition of the term “priest” has not previously arisen; therefore, the only indication of this profession can be found in the Classifier of Professions in Ukraine, which lists all possible names of priests in various religious organisations and directions, such as priest, pastor, presbyter, deacon, rabbi, mashgiach kashrut, moel, sofer, imam and mullah, with an indication that such a list is not exhaustive. However, for the purposes of reservation from mobilisation, this method is not acceptable. Therefore, Order No. H-21/11 of 5 February 2025 defines a priest according to the characteristics of his activity and connection with a religious organisation. In particular, a clergyman is the head (deputy head, employee) of a religious centre or religious administration or head of a religious community, monastery, religious brotherhood, missionary society (mission) or spiritual educational institution authorised to perform or conduct religious services, religious rites or ceremonies and carry out preaching activities and that has an employment relationship in a religious organisation. Thus, for the purposes of reservation, it is important not only to be recognised by religious canons as a person who can or must conduct religious rites or educational activities but also to have an employment relationship with the relevant religious organisation.

Each religious organisation operates in accordance with its hierarchical and institutional structure, and it elects, appoints and replaces personnel following its statutes (regulations). The legal status of a clergyman in a parish is determined by church law. However, the existence of labour relations between employees and any employer, including religious organisations, is evidenced by a concluded employment contract. A religious organisation has the right to employ citizens, and working conditions are determined by an employment contract, which is concluded in writing and registered in a prescribed manner. This is stipulated in Article 25 of the Law on Freedom of Conscience and Religious Organisations, which has been repeatedly indicated in judicial practice, for example, the Resolution of the Volyn Court of Appeal in case No. 22-п/802/251/20 dated 28 April 2020.

However, the problem is that among the religious organisations in Ukraine, the practice of maintaining labour relations with the clergy is not widespread.¹⁴ Usually, a priest is considered a member or leader of a religious organisation who is paid a certain

¹⁴ Yakovlev 2016, 108.

maintenance at the expense of such an organisation, and, in return, he performs religious rites, conducts religious services and is engaged in other religious activities¹⁵ without fixing the employment relationship. Such practice makes it impossible to reserve a priest and, accordingly, receive a deferment from mobilisation.

To determine which religious organisations have the right to reserve their employees, the following criteria that a religious organisation must simultaneously meet have been established: the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations contains information about the identification code of the legal entity-religious organisation in the Unified State Register of Enterprises and Organisations of Ukraine; a record of state registration of the creation of a religious organisation is entered into the Unified State Register no later than 26 December 2024; the religious organisation is not included in the list of religious organisations in Ukraine affiliated with a foreign religious organisation whose activities are prohibited in Ukraine; the location of the religious organisation is not located in the territory of Ukraine temporarily occupied by the Russian Federation; the charter (regulations) of the religious organisation has not lost its validity in the part that determines the full official name of the religious organisation; the religious organisation is entered into the Register of Non-Profit Institutions and Organisations; and the religious organisation submitted a report on the use of income (profits) of the non-profit organisation for the previous basic reporting (tax) period.

In general, these are quite simple and understandable criteria, but some still require some explanations and considerations. First, these criteria allow only legal entities to reserve their employees. At the same time, religious organisations in Ukraine can act both in the status of a legal entity and without such. In itself, this requirement does not actually limit the possibility of reserving employees, as the actual employment relationship (hiring an employee, paying him a salary, etc.) can only be carried out when the religious organisation is registered as a legal entity and has bank accounts, among others. However, this requirement, together with others, will stimulate the establishment of religious organisations in the form of legal entities in the future.

Second, the criteria establish an unambiguous prohibition for certain religious organisations, namely those affiliated with a foreign religious organisation, the activities of which are prohibited in Ukraine. It should be noted that the Law on Protection of the Constitutional Order in the Sphere of Activities of Religious organisations dated 20 August 2024, No. 3894-IX prohibits the activities of foreign religious organisations located in a state that has carried out armed aggression against Ukraine and that supports armed aggression against Ukraine in the territory of Ukraine. Certainly, this refers to the Russian Orthodox Church, which was banned by this same law because it is an ideological continuation of the regime of the aggressor state.

However, the law also prohibits the activities of affiliates connected to banned foreign religious organisations. This presents a more complex task, as it is necessary to establish a connection or affiliation that cannot be presumed. Each religious organisation registered in Ukraine is a separate legal entity with its own founders, leadership and structure.

¹⁵ Bilash, Karabin, Patskan 2024, 106.

Therefore, to determine whether signs of affiliation exist – or are absent – specifically between the Kyiv Metropolis of the Ukrainian Orthodox Church (UOC MP) and a banned foreign religious organisation in Ukraine, a specialised study was required. To this end, the State Service of Ukraine for Ethnopolitics and Freedom of Conscience initiated a separate investigation on 20 May 2025. The investigation concluded on 8 July 2025, and it found clear signs of affiliation between the UOC MP and the Russian Orthodox Church, based on a number of indicators: a) The UOC is part of the Russian Orthodox Church, the activities of which are prohibited in Ukraine, as evidenced by the organisation's statutory documents. b) Decisions of the Bishops' Council, the Holy Synod of the Russian Orthodox Church and the statute of the Russian Orthodox Church contain provisions authorising their statutory governing bodies to make binding decisions on canonical and organisational matters for the UOC MP. c) The decisions of the Bishops' Council and the statute of the Russian Orthodox Church mandate the inclusion of leaders from the UOC MP in the statutory governing bodies of the Russian Orthodox Church.¹⁶

Third, one of the requirements for a religious organisation is the validity of the charter in the part that determines the full official name of the religious organisation. This also requires some clarification. In August 2024, amendments were made to the Law on Freedom of Conscience and Religious Organisations (entered into force on 23 September 2024) regarding the mandatory information that must be contained in the charters of religious organisations. In particular, in addition to the name, the charter must indicate the type of religious organisation, its religious affiliation, management bodies and their competence, the procedure for making its own decisions and the procedure for resolving property and other issues in the event of the termination of the religious organisation. These legislative provisions were introduced to promote both the formal legal separation of the religious organisations of the UOC and the organisational separation from the Russian Orthodox Church. It is obvious that this requirement has not been met by the religious organisations of the UOC, or by most of them, because the corresponding changes have not been made to their charters. Therefore, in practice, this criterion prevents religious organisations of the UOC from exercising the right to reserve their employees.

Fourth, two formal requirements are not related to either interfaith conflicts or war but reflect the level of discipline and law-abidingness of religious organisations. This concerns the requirement for a religious organisation to register with the State Tax Service of Ukraine as a non-profit organisation and to systematically submit reports on the use of the income of the non-profit organisation. In this respect, it is worth clarifying that religious organisations registered with the tax authorities as non-profit organisations are exempt from paying income tax if such profits are used to achieve the statutory goals of the religious organisation itself, but they are not exempt from the obligation to report. However, the liability of religious organisations for their failure to fulfil this obligation is not actually provided for. The legislation protecting associations of citizens (including religious

¹⁶ Pro vyyavlennya oznak afiliyovanosti Kyivs'koyi mytropoliyi Ukrayins'koyi Pravoslavnoyi Tserkvy, Order of the State Service of Ukraine for Ethnopolitics and Freedom of Conscience No. N101/11 of 8 July 2025, https://deess.gov.ua/wp-content/uploads/2025/07/2025.07.08_Nakaz_Zatverdzhenia-Doslidzhennia-KM-UPTS_-1.pdf [accessed: 19 July 2025].

organisations) from unlawful state interference does not provide for the possibility of their forced liquidation in connection with evasion of reporting (as is provided for commercial entities). Accordingly, in practice, this has led to the abuse of this right by individual associations of citizens, including religious organisations, which systematically do not submit reports or, even more, are not registered in the register of non-profit organisations at all. This is confirmed by the fact that the list of religious organisations that have the right to reserve their employees from 34,663 registered institutions (as of 1 January 2025, including religious organisations that are not legal entities¹⁷) includes 7,726 legal entities—religious organisations. The official list was approved by the Order of the State Service of Ukraine for Ethnopolitics and Freedom of Conscience dated 6 June 2025. According to the SEFC, the largest number of religious organisations that were not included in this list comprise those that are not included in the Register of Non-Profit Institutions and organisations maintained by the State Tax Service of Ukraine and have not submitted an annual report on the use of the non-profit organisation's income for the previous tax period by 1 March 2025.

As for the reservation procedure itself, for the legal entities that meet the established criteria and are included in the specified list, more favourable conditions are determined compared with other legal entities and business entities. The general rules establish that the number of employees who can be reserved cannot exceed 50% of all military-liaible employees of the legal entity, and that their salary cannot be lower than the minimum wage in the country, multiplied by a factor of 2.5 (approximately 420 euros). Such requirements and restrictions do not apply to religious organisations. However, all priests who will apply for reservation must have current military registration documents (military card or temporary certificate) and provide copies of documents confirming receipt of the rank to the SEFC.

The reservation procedure was launched only on 6 June 2025. However, due to the large number of religious organisations, the reservation in the SEFC will take place in two stages. In the first stage, clergy-leaders will be reserved (i.e. in one religious organisation, only one clergyman, information about whom can be found in the Unified State Register of Legal Entities, is indicated as the head of the organisation). In the second stage, all other clergymen (not leaders) employed in clerical positions will be reserved. In addition, one can receive a deferral from mobilisation for a period of 12 months until 5 June 2026. Upon expiration of this period, information must be updated to obtain an extension of the deferral.

Thus, the regulatory and legal regulation of the reservation of priests can be considered “just finalised,” but the procedure has not yet been tested by administrative practice. Therefore, it is still premature to draw conclusions about its correctness and effectiveness.

¹⁷ Statistics from the official website of the State Service of Ukraine for Ethnopolitics and Freedom of Conscience, <https://dess.gov.ua/religion/> [accessed: 30 June 2025].

3. Chaplain service

A separate direction of military service in Ukraine intended specifically for priests is the chaplaincy service. It embodies the combination of religious and secular institutions in the military sphere¹⁸ and represents the extension of the influence of religious organisations within the Armed Forces.¹⁹

The introduction of this type of public service in Ukraine began in 2006, when the Minister of Defence of Ukraine issued an Order on regulating the issues of satisfying the religious needs of servicemen of the Armed Forces of Ukraine. This order was of a recommendatory nature, but it testified to the presence of a real public demand for the normative regulation of such relations.²⁰ It became a response to the then-existing “volunteer chaplaincy service”²¹ and the practice of the initiative invitation by commanders of military units of clergy to military units to perform pastoral functions. However, pastoral service at that time was not associated with the implementation of military duty and military service.

In 2014, with the beginning of the Russian aggression against Ukraine, when the question of forming a combat corps of the Armed Forces of Ukraine arose, the legal regulation of the chaplaincy service from the sphere of concepts, memoranda and strategies moved to legal acts of a higher degree of imperativeness.²² The first act, which was not only conceptual or ideological but had a regulatory normative content, was the order of the Cabinet of Ministers of Ukraine On the service of military clergy (chaplaincy service) in the Armed Forces, the National Guard, the State Special Transport Service and the State Border Service. *De facto*, this act cemented the institutionalisation of chaplaincy.

A separate Law on the Military Chaplaincy Service²³ was adopted by the parliament in 2021 and entered into force in March 2022 during full-scale armed aggression. To implement the newly adopted law, amendments were conducted on the List of military registration specialties for officers²⁴ the Regulations on military service in the Armed Forces of Ukraine,²⁵ and the procedure for obtaining a mandate for the right to perform military chaplaincy activities was regulated.²⁶ Since then, chaplaincy service has been functionally perceived as part of military duty, and organisationally, it has become part of military

¹⁸ Vashchuk 2020, 63.

¹⁹ Skurikhin 2021, 33.

²⁰ Chaika, Dragan 2022, 215.

²¹ Burakov, Tomchuk 2021, 40.

²² Bilash, Karabin 2020, 99.

²³ Law of Ukraine No. 1915-IX of 30 November 2021, <https://zakon.rada.gov.ua/laws/show/1915-20#TextOfficial> [accessed: 30 June 2025].

²⁴ Pro zatverdzhennya zmin do Pereliku viys'kovo-oblikovykh spetsial'nostey osib ofitsers'koho skladu ta Pereliku viys'kovo-oblikovykh spetsial'nostey, za yakymy mozhe buty prysvoyeno pervynne viys'kove zvannya molodshoho leytenanta, Order of the Ministry of Defence of Ukraine No. 103 of 6 April 2022, <https://zakon.rada.gov.ua/laws/show/z0400-22#Text> [accessed: 30 June 2025].

²⁵ Pro Polozhennya pro prokhodzhennya hromadyanamy Ukrayiny viys'kovoyi sluzhby u Zbroynykh Sylakh Ukrayiny, Decree of the President of Ukraine No. 1153/2008 of 10 December 2008, <https://zakon.rada.gov.ua/laws/show/z0400-22#Text> [accessed: 30 June 2025].

²⁶ Pro zatverdzhennya Polozhennya pro poryadok vydachi mandata na pravo zdiysnennya viys'kovoyi kapelans'koyi diyal'nosti, Resolution of the Cabinet of Ministers of Ukraine No. 859 of 2 August 2022, <https://zakon.rada.gov.ua/laws/show/859-2022-%D0%BF#Text> [accessed: 30 June 2025].

service. Accordingly, a priest who has already been mobilised could (and currently can) take the position of chaplain. Moreover, a priest who cannot or does not want to use the reservation has the option of choosing the path of being a military chaplain.

The right to serve as a chaplain is assigned to a citizen of Ukraine who is a clergyman of a religious organisation registered in Ukraine, has received a higher theological education and whose candidacy was provided by the leadership centre of the relevant religious organisation. Obtaining the status of a military chaplain by a priest is associated with obtaining a mandate from the State Service of Ukraine for Ethnopolitics and Freedom of Conscience. The mandate is nominal and granted to a specific priest. However, for a religious organisation, the mandate is also a way for the chaplain to preserve his confessional and church affiliation,²⁷ as it is issued at the suggestion of a specific religious organisation.

For each religious organisation, quotas are set within the general quotas of confessional representation, 90% of which reflect the confessional affiliation of the personnel of the Armed Forces of Ukraine,²⁸ while the remaining 10% are determined independently by the head of the Military Chaplaincy Service (a unit of the Staff of the Commander-in-Chief of the Armed Forces of Ukraine). It is worth noting that, according to information sources (the accuracy of the information cannot be verified at this time), more than 300 priests and theologians from 13 religious organisations serve in the Armed Forces of Ukraine, the National Guard of Ukraine and the State Border Service of Ukraine.²⁹ However, this is insufficient. According to the representative of the State Service of Ukraine for Ethnopolitics and Freedom of Conscience, citing data from the Armed Forces of Ukraine, the positions of military chaplains are filled at approximately 36%.

The reason for this state of affairs is that the Law on Military Chaplaincy Service establishes a ban on a religious organisation that is part of the structure of a religious organisation with a centre of administration in the aggressor country from having its representatives among military chaplains. Therefore, the clergy of the Ukrainian Orthodox Church (UOC) have not yet received a single chaplain mandate³⁰. Accordingly, the entire burden of providing the army with Orthodox chaplains *de facto* lies with the Orthodox Church of Ukraine (OCU); this is despite the fact that approximately 80% of servicemen consider themselves Orthodox Christians. The complexity of the situation is exacerbated by the shortage of priests and by the fact that religious communities that transfer to the

²⁷ Spivak 2022, 82.

²⁸ The Law On the Internal Service Regulations of the Armed Forces of Ukraine No. 548-XIV of 24 March 1999 provides that military commanders (of a brigade, battalion, company, platoon or squad) are obligated to know the religious affiliation of their subordinates. Immediately upon a servicemember's arrival at the unit, the command determines their religious affiliation.

²⁹ Stalo vidomo, skil'ky syvashchenykh sluzhyt' u ZSU, 12.10.2024, <https://glavcom.ua/country/incidents/stalo-vi-domo-skilki-svashchenykh-sluzhit-u-zsu-1025454.html> [accessed: 30 June 2025].

³⁰ Zonden syvashchenosluzhytel' UPTS MP ne ye viys'kovym kapelanom v Ukrayini – Derzhetnopolityky, 19.12.2024, <https://www.ukrinform.ua/rubric-society/3939955-zoden-svashchenosluzhitel-upc-mp-ne-e-vijskovim-kapelanom-v-ukraini-derzhetnopolitiki.html> [accessed: 30 June 2025].

OCU from the UOC, in 70% of cases, transfer without priests. Therefore, it turned out that this religious organisation needs priests in large numbers and at once.³¹

The legal status of military chaplains is equated to the status of servicemen. However, the dualism of status is still present. Military chaplains do not cease to be ordained religious ministers³² and remain within the hierarchical structure of their religious organisation.

4. Basic general military training

Another type of military service in Ukraine is also relevant to the mobilisation status of priests – basic military training. As a result of changes to the legislation introduced in 2024 (Law of 11 April 2024 N 3633-IX), conscription was abolished. Instead, all men aged 18–25 years – that is, those who are not subject to mobilisation by age – are obligated (while women have the right) to undergo either basic military service or basic military training.

Basic military service is carried out by citizens of Ukraine in the Armed Forces of Ukraine and other military formations to obtain a military-registered speciality and acquire practical skills and abilities for the armed defence of the Fatherland. However, people studying full-time or dual education undergo basic military training in higher education institutions. Such training is integrated into the educational process and accounts for 300 academic hours (90 hours of theoretical courses in educational institutions and 210 hours of practical courses in training centres of the Armed Forces of Ukraine). The standard programme of the theoretical part of basic military training was developed by the General Staff of the Armed Forces of Ukraine and agreed upon by the Ministry of Education and Science of Ukraine. It will begin for students in the second year of undergraduate studies in September 2025. During the training, candidates will receive basic knowledge of tactics, first aid, psychological training, the basics of military discipline, international humanitarian law and skills in handling small arms. It intends to pay special attention to practical aspects, specifically training in the use of weapons, orientation in the terrain and ensuring one's own safety in combat conditions.

Conversely, basic military training is mandatory for applicants to higher education institutions of all forms of ownership and management. This means that this requirement also applies to private higher education institutions established by religious organisations and training applicants in the speciality of theology. It should be noted that higher theological education in Ukraine has a dualistic structure³³. On the one hand, religious educational institutions can be established as one type of religious organisation aimed at

³¹ U Zbroynykh sylakh Ukrayiny posady viys'kovykh kapelaniv zapovneni na 36%. Press conference of the Head of the Department for Religious Affairs of the State Service of Ukraine for Ethnopolitics and Freedom of Conscience titled "The Legal Framework of Chaplaincy Activities and Interfaith Understanding in Modern Ukraine," 4.02.2025, <https://www.ukrinform.ua/rubric-society/3956206-u-zsu-posadi-vijskovih-kapelaniv-zapovneni-na-36.html> [accessed: 30 June 2025].

³² Chaika, Dragan 2022, 227.

³³ Bilash, Karabin 2022, 115.

training ministers “for the internal needs” of the church. Such institutions provide educational services in accordance with the requirements of the church, but as they do not obtain a licence without undergoing accreditation, their programmes do not necessarily meet state standards. On the other hand, higher education institutions have been formed that train higher education applicants in speciality B8 “Theology,” that corresponds to speciality 0221 “Religion and theology” of the International Standard Classification of Education (ISCED-F 2013), which must meet the same requirements imposed on other higher education institutions regarding licensing and accreditation, programmes and the educational process, and requirements for teachers. Therefore, basic military training is also being introduced into the curricula for students at such universities and specialities.

Currently, in the second year of study, in which basic military training is introduced, more than 230 applicants from 12 state-owned and private higher education institutions that train specialists in the specialities of religion and theology will study in the 2025–2026 academic year. The refusal of a male applicant to undergo practical training in basic training is grounds for his expulsion from the educational institution in accordance with the legislation.

Conclusion

Over the past four years, legislation regulating legal relations in the military sphere has been verified and improved in the conditions of real military operations and general mobilisation. The practical application of the norms revealed individual errors and gaps, which led to the introduction of amendments and additions to legislative acts. In less than four years of full-scale war, a more or less proportional regulation of mobilisation, deferrals from mobilisation and reservation of various categories of persons depending on age, gender, type of activity and health status was formed. Perhaps the last on this list are clergymen and persons who need protection for the right to freedom of worldview and religion. The reason for this is that the dynamic regulation of these issues began only last year, and not all issues have been settled even to this day, although there is a scientific discussion and criticism among believers, court decisions are being made, and administrative practice is being formed.

The mobilisation status of the clergy may vary depending on the conditions and circumstances, but the issue of legal regulation can be conditionally grouped into several blocks. First, this is an issue regarding the alternative (non-military) service of persons belonging to religious organisations whose beliefs do not allow the use of weapons. The current provisions of the Law on Alternative (Non-Military) Service limit the right to alternative service only to conscription. Considering that conscription will be abolished in 2024 and replaced by basic military service, the question remains unanswered as to whether the provisions of the Constitution of Ukraine, which defines the right of all individuals to freedom of opinion and religion, still guarantee the right to conscientious objection. A remaining legal problem in this respect is the justification for restricting

the right to alternative service by the need to protect state sovereignty in the event of military invasion.

Second, this is an issue of priests' reservation, the settlement of which was completed only in June 2025. The legislative norms determine 1) who exactly has the right to be reserved, 2) which religious organisations can reserve their employees and 3) the reservation procedure itself. The criteria put forward for both priests and organisations are mostly formal and equalise religious organisations in the possibility of reserving their employees—priests. An exception is made for the UOC MP, as its affiliation with the banned foreign religious organisation, the Russian Orthodox Church in Ukraine, has been established.

Third, this is an issue in the chaplaincy service. Unlike the previous two blocks, this is not about avoiding military service but rather about a separate direction of military service that can only be carried out by priests of religious organisations registered in Ukraine. The peculiarity of chaplains lies in the duality of their legal status: being military personnel in the Armed Forces of Ukraine, they do not cease to be in the hierarchical structure of their religious organisation. Currently, there is a shortage of military chaplains in the army. Nevertheless, the clergy of the UOC have not yet received a single chaplain's mandate.

Fourth, basic military training indirectly affects the mobilisation status of priests, as it is integrated into the curricula of higher education institutions, including those established by religious organisations and providing educational services in the specialty of theology. Its main task is to obtain a military registration specialty and acquire practical skills and abilities for the armed defence of the Fatherland.

Thus, under martial law in Ukraine, a priest is a person liable for military service (if he is male) and has special mobilisation status. His profession, occupation and education entitle him to be reserved by the religious organisation to which he belongs and to serve as a chaplain in the Armed Forces, the National Guard, the State Special Transport Service and the State Border Guard Service of Ukraine.

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