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On the problem of blocking Ukrainian passport issuance/renewal in EU

Greetings!

I am the leader of the Independent Initiative Group of the Ukrainian Diaspora "Liberty UA" in Poland, registered as NGO. Our community was created in response to the Ukrainian government's ill-considered actions towards premature implementation of Law No. 3633-IX of April 11, 2024, before it legally came into force at 18.05. Such actions violated Articles 58 and 25 of the Constitution of Ukraine and led to numerous problems for our citizens, specifically with acquiring identification documents abroad. We are the largest, legit and most patriotic community dedicated to that issue among those represented in EU countries - we always think about potential consequences of our actions and avoid all types of harm that could possibly affect Ukraine's ability to resist Russian military aggression.

Let me introduce our case to you.

According to mentioned law https://zakon.rada.gov.ua/laws/show/3633-20#Text, for men of conscription age **ukrainian consular services abroad, particulary issuance of international passports, are limited to those of in possession of military registration documents.** From our point of view, such a decision is a clear example of nonsense, because it will not force men to come back and join the army – people will be searching ways to stay in EU (both legal and illegal) , **especially those who emigrated to EU before the war** and having here the center of their vital interests. Only positive motivation could help to conquer deep human fears and go to war to be effective soldier – and such a motivation cannot be gained by force.

However, even despite that obvious fact, **system that government provided for ukrainian citizens to obey newly invented rules, is faulty, discriminatory and corruption-prone.**
In practice, government and consular structures accept military documents only in the form of QR-codes generated by specific online tools – mobile application "Reserve+", or in some cases, government "Diia" portal, both of which operate with the military "Oberih" register.

The key issue here is that **proper QR** documents **are not generated for everyone** – that depends on data which was collected by different means in the mentioned military register "Oberih", and also depends on decisions made by military conscription officers in Ukraine. Firstly, **"Oberih" may not have any data at all – if clerks lost paper documents** due to negligence, or destroyed them just before russian occupation due to military necessity. In this case, there's no definitive procedure to fulfill the register with required data, especially online, so people with such problem get **«Insufficient data», «Absent data» statuses** when they try to use "Reserve+" or "Diia". That problem especially affects people from territories which were or are under russian occupation. People who have already suffered a lot from war and managed to escape and establish their lives in a new country. And now our own government denies them a passport. In case of sending official requests to the military, they are **invited to visit Ukraine in person – which poses a mortal danger long before any military registration**

actions can take place, and **is obviously a one-way ticket**, as the borders are closed for the exit of conscription-aged men. Some invitations are absurd. For example, people from occupied territories are advised to visit cities like Pokrovsk which is only 10 km from the frontline and under constant shelling.

Secondly, **people may get status "Wanted" or "Violation of military accounting" –** such status means that military **conscription officer decided that the person had a violation** in his previous life period(even before emigrating from Ukraine), or thinks that some newly-done violation has appeared. And that could happen at any time, even if a person currently resides abroad, and depends only on the desire of the responsible conscription officer. Obviously, such a system **is a major source of corruption** – as the military conscription system in Ukraine got almost no control, observation or accountability for wrongdoings (that will be illustrated later in this letter). This statuses also can only be fixed upon personal visit to TCR (Territorial Center of Recruitment). So in fact **returning to Ukraine becomes mandatory for those who loose "at the lottery" and left without proper QR code and status** in "Reserve+" - as in practice person never know beforehands if he could get required status. In such circumstances, we already have information about bribe demands by some officials to change that status.

Here one of the earlier publications on the mentioned statuses provided at https://hromadske.ua/suspilstvo/224526-usi-dorohy-vedut-do-ttsk-predstavnyk-tsentru-komplektuvannia-pro-novi-pravyla-mobilizatsiyi .

Also worth mentioning, that use of **these mobile services puts citizens' data at risk**, and probably violates GDPR, as similar Ukrainian government services were reportedly leaked before https://espreso.tv/poglyad-yak-khaknuli-diyu . Experts in cyber-security are the same worried about data protection of "Reserve+" https://espreso.tv/poglyad-chi-varto-doviryati-dodatku-rezerv.
Also, **for some people,** who lived in the EU long before the war started, **it is even impossible to use "Reserve+" or "Diia"**, **because it is required to have a Ukrainian bank account or at least some document with chip (id-card or passport)** to register there.

So it is wider problem, and we also have **specific case** of people **who requested and paid for their passport issue before 18.05.2024**, i.e before new law came to legal force. In the EU such services are provided by two structures – Ukrainian Consulates, and branches of state-owned enterprise "Document". Consulates obviously are run by Ministry of Foreign Affairs, and SE "Document" is managed indirectly by Ministry of Internal Affairs of Ukraine. So, passports requested before 18.05.2024 at Consulates were freely picked up as it should be according to the laws and Constitution of Ukraine. But for those passports which were requested on the same conditions at **SE "Document" – issuance is still blocked** over the 8 months period already. SE "Document" responses with nonsense of any written request, and Ukrainian authorities do not explain the legal basis for such a decision - they just refer to "technical problems", "test mode" or sometimes to certain "non-public", "oral" ministerial decree, which is impossible to familiarize with. Just as it is impossible to identify the specific person who prohibited releasing of ready-made passports (however, we have information that it might me Minister of Internal Affairs of Ukraine himself). At the same time, passports were freely released to some **specific so-called "vulnerable" categories** of people, not specified in any law – like disabled and those having more than 3 children, as well as men of non-conspription age.These exclusions are random. Some representatives of such groups are denied receiving their documents, some are not. So, in our opinion, **it is a clear discrimination,** which violates fundamental principles of EU laws, which are mandatory to obey on its territory. In October 2024 SE "Document" started to release some amount of passports only inline with new regulations – only when military registration documents are presented. This **violates** the basic **principle** of jurisprudence about the **absence of a retroactive function of the law,** enshrined in ukrainian Constitution under article 58. And obviously, it does not look like proper care of ukrainian citizens abroad, which the government should provide due to Constitution article 25. Both of the articles have legal force during military time(art.64 of the Constitution) and may not be restricted because of it. So such actions of SE "Document" look like obeying illegal orders and/or criminal negligence, which caused heavy damage. Several thousand people are among the victims of a such sudden refusal of service, and some of them suffered financial losses, job dismissals and obviously moral harm. There are facts of

victims contacting local police in countries of the EU to qualify the refusal to provide services in accordance with the local legislation. We can provide copies of these statements to you upon request.

Our NGO did a lot to make the Ukrainian government recognize and fix that problem – we sent requests to members of the Ukrainian parliament, to the Ukrainian and Polish Ombudspersons, and Polish government. 7709 Ukrainian citizens signed an online petition on the official government site – https://petition.kmu.gov.ua/petitions/6840 , and we also held a lot of manifestations:
Prague (https://www.radiosvoboda.org/a/news-praha-mitynh-pasporty-choloviky/33052369.html),
Wroclaw (https://wroclaw.tvp.pl/79511716/protest-przed-konsulatem-generalnym-ukrainy),
Krakow (
https://uainkrakow.pl/mityngy-petycziyi-ta-zustrichi-z-uryadom-yak-ukrayinczi-u-krakovi-namagayutsya-pryvernuty-uvagu-do-problemy-vydachi-pasportiv-u-dp-dokument/), **Warsaw** (
https://www.radiosvoboda.org/a/choloviky-za-kordonom-dokumenty/33082534.html,
https://www.radiosvoboda.org/a/video-shcho-hovoryat-choloviky-za-kordonom/33206922.html).

It is worth mentioning that only the European press and Radio Liberty made some publications about the aforementioned problem. I personally addressed some Ukrainian media to write about the problem, but requests were denied "to eliminate possible division in Ukrainian society", which proves, in our view, the degradation of Ukrainian journalism. Also, despite the fact that SE "Document" literally states on their own official site
https://pasport.org.ua/news/informatsiia-shchodo-vnesennia-zmin-do-postanovy-kmu-678-shchodo-eksperymentalnoho-proiektu-z-oformlennia-pasportnykh-dokumentiv-za-kordonom that passports which had been requested and paid **before the Law No. 3633-IX** came into force should be released according to preexisted procedure – without any QR-codes or military registration documents, **in practice clerks demand those documents, or ask to wait more, not issuing any official denial**. It is done to make impossible potential appeals of getting so-called "Travel Document for the Foreigners" from the local EU migration authorities. However, the legal time limits for delivery of passports are only **3 months** https://www.kmu.gov.ua/npas/pro-realizaciyu-eksperimentalnogo-pr-678 and, as you can see, these regulations have clearly been broken for more than half a year. What is even more interesting is the fact that in the decree it is also stated that passports may be delivered by international service companies, and which usually takes only 1 week to be done. So we can conclude that in spring 2024 the delivery was slowed down deliberately till a new law is voted on and implemented.

This situation proves that the **rule of law does not work well in Ukraine**, at least not as well as it should work in modern European society (it especially concerns the structures of the Ministry of Internal Affairs of Ukraine, which has always been a repressive police body and it still lacks reform). Meanwhile, the **rule of law is a key principle enshrined in the Fundamentals cluster of EU accession talks**, which Ukraine just started.

Recently, we had the **first court decision in Ukraine which proves our legal stance** and requires SE "Document" to release passports to citizens without military registration documents according to art. 58 of the ukrainian Constitution (https://reyestr.court.gov.ua/Review/122842088).
However, the decision did not become a precedent and did not lead to a mass releasing of passports, which once again indicates the artificial and illegal nature of the imposed restrictions. Mass individual judiciary processes may last months and years with uncertain results, but people's passports could expire faster (Some of them have already expired).

Overall, from our point of view, **international passport issuance restrictions are a serious violation of human rights and freedoms** - since it entails a number of legal consequences for ukrainians who live in the territory of foreign countries. This practice, applied also by the dictatorial regime of Lukashenko to Belarus citizens, has already received international condemnation. **Absence of valid international passports complicates or even makes impossible to apply or renew residence permits**, along with blocking access to medical, legal, banking services, and exercising fundamental human rights for work, education, conducting business. All of these are crucially needed by every person who lives abroad, especially in a state of emergency humanitarian situation which the war in Ukraine obviously is, which affects not only men but their families and children also.

The very declaration of intention to forcibly return citizens to Ukraine, which is often done by Ukraine's officials, in our opinion, is the clearest denial of people's subjectivity, and it reduces a living human to the status of an object, an inanimate property of a state. Such declarations and policies should not be represented in civilized society in any way.

This attitude of Ukraine's government to their own citizens leads to deep disappointment and distrust, so people are unlikely to continue donating much to the Ukrainian army and unlikely to ever wish to return. So, overall, it **makes Ukraine's ability to defend weaker**.Here are some publications in European media about the consequences of Ukrainian government decisions:

1. https://www.rp.pl/prawo-pracy/art40338281-brak-ukrainskiego-paszportu-czy-mozna-dalej-pracowac-w-polsce
2. https://ct24.ceskatelevize.cz/clanek/domaci/ukrajinsti-muzi-v-cesku-maji-casto-potize-s-obnovou-dokladu-ma-je-to-primet-k-navratu-a-obrane-349454
3. https://www.swissinfo.ch/eng/foreign-affairs/go-to-war-or-stay-ukranian-men-in-switzerland-face-fresh-dilemmas/87710085

Mobilization measures in Ukraine and recent law amendments

Here we also need to explain, overall, the picture of **Ukrainian government methods, which are authoritarian in nature** both to citizens inside of Ukraine and abroad – it is all connected. Government officials presented Law No. 3633-IX as a possible opportunity to stop the violent draft process in the streets which is regularly committed by authorized TCR (Territorial Center of Recruitment) personnel.This process includes kidnappings of men of conscription age using street ambushes, illegal detention of people in the buildings of recruitment centers, threats, torture and beatings. The Ukrainian society even invented the term "**the busification**" due to intense use of vehicles by TCR personnel for the kidnapping. But in practice, the new law only empowered those TCR(and police) personnel without providing any supervisory function over them. They just continue covering their violations of human rights by "administrative detentions" for "violating military accounting", especially for "not renewing military data" as is required by the new law.But, **if the rule of law worked well, such detention could not last more than 3 hours**, while in practice people detained by the police or TCR are never released again. They stay detained until the moment they are sent to military training grounds and to war afterwards. They are treated as dangerous criminals during the whole process. We have made a video compilation of media and social network reports of such cases https://vimeo.com/1027618950 (same on our web-site https://ualibertypass.org/) That could be useful for investigators, as most added cases have car numbers to find drivers and owners. And here is some of many publications on the matter:

1) https://tsn.ua/exclusive/busifikaciya-ta-inshi-skandali-iz-tck-chomu-ce-stayetsya-i-scho-zavazhaye-efektivniy-mobilizaciyi-2668689.html
2) https://zahid.espreso.tv/suspilstvo-totalna-busifikatsiya-chi-diysno-problema-taka-strashna-yak-ii-opisuyut

Thus, coming back to Ukraine for any purposes poses significant risk of becoming a victim of such violent and humiliating mobilization practices. This fact also makes Ukrainian citizens living in EU countries decide against returning to their homeland. Even those people who might be ready to join the army have reasonable grounds to worry about their health, dignity and life, when they virtually have no control on their fate from the moment of becoming part of military system.

Occasionally, the Ukrainian media publish information about the deaths and injuries of men held in recruitment centers against their will. There are known attempts to mobilize adolescents and people with epilepsy, lawyers (as a punitive measure to interfere with human rights activities).

From the media we know about numerous **cases of ignoring severe medical conditions and diseases of those mobilized** to serve on the battle line, which leads to further severe health problems, including disability. As well, cases of ignoring individual skills of conscripts and current military personnel are a common practice. Conscripts are appointed for military jobs in which they will be less effective, just to

fill in planned positions – so even medics (including neurosurgeons), **anti-aircraft or drone specialists are forced to fight directly in trenches**. You can find detailed information in the media:
1) https://tsn.ua/ukrayina/u-vlk-ye-vkazivka-zverhu-viznavati-vsih-pridatnimi-skorohod-2699514.html
2) https://espreso.tv/viyna-z-rosiyeyu-eksrechnik-povitryanikh-sil-zsu-ignat-tak-nashikh-viyskovikh-chastkovo-perevodyat-u-pikhotu-ale-vidsotok-zbittya-shakhediv-azh-niyak-ne-zmenshivsya
3) https://tsn.ua/ato/medikiv-perevodyat-u-shturmoviki-na-front-deputatka-shokuvala-zayavoyu-2694396.html
4) https://www.lrt.lt/naujienos/pasaulyje/6/2387685/lrt-is-ukrainos-vyrai-gatvese-tempiami-i-kariuomene-daug-tu-patriotu-jau-nebera

And as well in the recent **detailed report of the Ukrainian parliamentary investigative commission**, https://itd.rada.gov.ua/billinfo/Bills/pubFile/2537582

At the same time, it is good to understand the **political reasoning** of the Ukrainian government to adopt such restrictions on passport issuance abroad. The Ukrainian **media are filled with aggressive and offensive rhetoric of hatred towards men still not serving in the military for some reason**. Both journalists and officials repeatedly use the term "Uhilyant" (draft dodger), which from a legal point of view is applicable only to a criminal convicted by a fair court and denotes a person evading military service who has violated a number of specific conscription procedures. In particular, if he went through the medical commission at recruitment centers and did not appear on a mobilization order afterward, etc. Many Ukrainian men living or receiving protection in the EU feel insulted and unfairly accused of crimes they did not commit – especially in cases where they lived here long before the war. The level of such aggression towards men has reached its top point, and authorized representatives of the Ukrainian state are not taking any measures to de-escalate it. Instead, adopting such laws, narratives and policies looks like the **government is attempting to find someone to focus public rage on** – and people abroad suit this purpose quite well.

Also, the new mobilization law completely ignores the issue of demobilization or rotation of military personnel participating in a military conflict from the very beginning. Which frankly reduces their chances of survival and further existence in the ongoing intensive hostilities. In fact, in Ukraine there is no possibility of a legal exit from military service, except for death or serious injury – despite people need rest and recover to keep fighting. The new law also requires every man liable for military service to update his data in the recruitment center(physically or through the above-mentioned mobile application) within 60 days from the date of entry into force of this law. And a penalty for failure to comply with this norm alone is a heavy fine (like ~500 euro equivalent), which may be even doubled if handed over to the state executive service.

Overall, **instead of boosting people motivation** through providing respectful treatment and proper training during military service(with certain time limits set!), **government just tries to use brutal force for conscription**, which makes as process itself, as army in whole - less effective.

Conclusion

Taking into account all mentioned above, to ensure legal rights and freedoms of Ukrainian citizens in EU, as well as interests of european countries to retain taxation of jobs and businesses conducted by Ukrainian citizens we ask you:

1. To develop and put into vote EU legislation for recognizing expired Ukrainian international passports as valid document for all of its purposes, like applying for temporary and permanent resident permits, bank account openings, making job contracts or conducting business etc. – during the period of legal stay of Ukrainians in EU member countries due to "temporary protection" status or other legal grounds.

2. To develop and put into vote EU legislation providing special procedure for issuing to Ukrainians “Travel Document for a Foreigner” or other identification document serving for all the same purposes like international passport - like applying for temporary and permanent resident permits, bank account openings, making job contracts or conducting business etc. This procedure is especially imporant in case of absent(lost or stolen) Ukrainian international passport. Something like this was already done by some EU countries for citizens of Belarus escaping Lukashenka regime who has blocked consular services same way before, and now Ukrainians need the same.

Please note that all Ukrainian citizens legally residing in the EU countries, including those who lived here before the start of the military conflict, as well as those who arrived after it, are identified using biometric control. In particular, when obtaining temporary residence permits and temporary protection documents. Which makes the requirement for a Ukrainian international passport a bureaucratic obstacle that complicates the lives of people who have suffered from a severe humanitarian crisis and military catastrophe. And it does not bring any practical benefit for the purposes of registering Ukrainian citizens by governments of the countries of residence.