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# Leave for Male and Female Service Members: Challenges and Prospects

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## Introduction

In the context of prolonged armed aggression, the right of service members to rest and leave takes on particular significance as a constitutionally guaranteed social right, enshrined in [the Constitution of Ukraine](#) and relevant legislation. This right is especially important because rest serves not only as a means of physical and psychological recovery but also contributes to maintaining combat readiness and boosting the morale of defenders.

Leave time is often the only opportunity for military personnel to address personal, family, or domestic matters. Despite legislative guarantees, the implementation of this right remains challenging. These difficulties are reflected in the numerous requests from service members and their families for legal assistance, including those addressed to the “Legal Hundred” hotline.

This analytical report focuses on current legislation, by-laws, and the legal gaps and challenges that arise in the practical application of relevant norms. The preparation of this brief included a review of a significant number of legislative and sub-legislative acts, registered thematic draft laws, as well as anonymized data from consultations requested by male and female service members via the Legal Hundred’s hotline.

## Legal Regulation of Military Leave

The primary legal act guaranteeing the right to rest is [the Constitution of Ukraine](#). Article 45 establishes that everyone who works has the right to rest, which is ensured, in particular, through the provision of paid annual leave. General provisions on the duration, types, and procedure for granting leave are outlined in [the Labor Code of Ukraine](#).

However, it is important to note that these provisions do not apply to military personnel, except for guarantees related to the protection of motherhood and childhood. [The Law of Ukraine "On Leave"](#) defines the types of leave, as well as the procedure and conditions for granting them. Like the Labor Code, this law also does not regulate military leave, except for aspects related to maternity guarantees.

Social guarantees for servicewomen are regulated by special provisions that align with general legislation. According to Clause 5, Article 11 of the Law of Ukraine "On Social and Legal Protection of Military Personnel and Their Families," female service members are entitled to all benefits provided by legislation on the social protection of women, and the protection of motherhood and childhood.

The same benefits apply to military personnel who are fathers raising children without a mother.

According to Article 10-1 of the Law of Ukraine ["On Social and Legal Protection of Military Personnel and Their Families,"](#) female service members are entitled to maternity leave. [Article 179 of the Labor Code of Ukraine](#) establishes the duration of this leave: 126 calendar days (70 days before childbirth and 56 days after), or 140 days in the case of complicated childbirth or the birth of two or more children.

For military personnel, the terms and procedure for granting leave are regulated by special normative legal acts, including:

- [the Law of Ukraine "On Social and Legal Protection of Military Personnel and Their Families";](#)
- [the Regulation on the Procedure for Military Service by Citizens of Ukraine in the Armed Forces of Ukraine, approved by Presidential Decree No. 1153/2008 of December 10, 2008.](#)

Thus, [the Regulation on the Procedure for Military Service by Citizens of Ukraine in the Armed Forces of Ukraine, approved by Presidential Decree No. 1153/2008 of December 10, 2008,](#) defines an exhaustive list of types of leave.

**Annual leave:** annual basic leave, additional leave for performing military duties involving neuro-emotional and intellectual strain or carried out in special natural, geographic, geological, climatic and ecological conditions and in conditions of increased risk to life and health.

**Additional leave:** leave for certain categories of citizens and for injured participants of the Revolution of Dignity, study leave, creative leave.

**Social leave:** maternity leave, leave to care for a child until the age of three, leave in connection with the adoption of a child, leave for military personnel who have children.

In addition to the special legal regulation of the types, duration and procedure for granting leave, attention should also be paid to the conditions of its granting. One of the most important conditions is the various legal regimes in the country: peacetime, special period, or martial law.

The special period and martial law are not identical concepts, although they may exist simultaneously. The concept of a special period is defined in [the Law of Ukraine "On the Defense of Ukraine"](#) and means a temporary state covering the period of mobilization, martial law, as well as partially the period of recovery after the end of hostilities. On the other hand, the legal regime of martial law is introduced in accordance with [the Law of Ukraine "On the Legal Regime of Martial Law"](#) and is imposed in the event of armed aggression against Ukraine or a real threat of attack.

During a special period, the granting of leave is restricted. The application of such a restriction is defined by Clause 17 of Article 10-1 of [the Law of Ukraine "On Social and Legal Protection of Military Personnel and Their Families,"](#) and during martial law — by Clause 18 of the same article.

Thus, the legislation guarantees the following types of leave:

During a special period:

- Annual basic leave with retention of monetary support;
- Vacation leave for cadets (listeners);
- One-time leave upon the birth of a child (in accordance with [Article 19-1 of the Law of Ukraine "On Leave"](#));
- Leave for family circumstances;
- Leave for treatment due to illness or treatment after injury.

During martial law:

- Annual basic leave with retention of monetary support (granted in parts throughout the calendar year);
- Leave for family circumstances;
- Additional leave for destroyed equipment;
- Vacation leave for cadets (listeners);
- Leave for treatment due to illness or treatment after injury.

[Clause 19 of Article 10-1 of the Law of Ukraine "On Social and Legal Protection of Military Personnel and Their Families"](#) clarifies that the granting of other types of leave during the above-mentioned legal regimes is suspended, except for:

Maternity leave for female service members;

Parental leave to care for a child until the child reaches the age of three, and if the child requires home care, for a period determined in a medical opinion, but not exceeding the age of six;

Leave for treatment due to illness or for treatment after injury (concussion, trauma, or mutilation) based on a conclusion (decision) of the military medical commission.

It should be noted that parental leave to care for a child may be granted to one of the parents if both are military service members.

## **Problematic Issues**

It is important to emphasize that during a special period or under the legal regime of martial law, active service members not only lack the opportunity to take additional or social leave, but also have no legal grounds to receive monetary compensation for such leave upon discharge.

At the same time, the Verkhovna Rada of Ukraine has adopted in the first reading Draft Law No. 11495 dated August 19, 2024, which proposes amendments to Article 10-1 of the Law of Ukraine “On Social and Legal Protection of Military Personnel and Their Families” regarding the guarantee of the right to compensation for unused leave days. The relevance of such changes must be underscored, as the state must ensure the implementation of social guarantees for military personnel. Given the specifics of the legal regimes that prevent the granting of the aforementioned types of leave, it is fair to introduce compensation for the unused days.

It should be noted that we submitted proposals to supplement the mentioned draft law with provisions on monetary compensation for unused leave days to family members of fallen Defenders, in order to ensure a direct interpretation and application of the legal norm, since the death of a service member should not be grounds for denial of a right guaranteed by the state.

## **Recommendations**

Given the increased workload, psychological stress, and risks to life and health, the issue of providing compensation for unused days of the following types of leave upon discharge from military service deserves special attention:

- Leave for performing military duties associated with neuro-emotional and intellectual stress or carried out in special natural, geographic, geological, climatic and ecological conditions, or in conditions of increased risk to life and health;
- Leave in connection with studies;
- Creative leave;
- Leave in connection with the adoption of a child;
- Leave for individuals who have children or an adult child with a disability from childhood, subgroup A of group I;
- One-time leave upon the birth of a child.

In addition, proper financial and economic justification should be provided in accordance with [the Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine."](#)

The restrictions arising from the imposition of martial law in the country should not deprive citizens of their guaranteed rights. This is not only a sign of the state's care, but also an effective tool for supporting service members and their families — one that, among other things, can increase motivation for military service.

In the event of excessive pressure on the state budget and taking into account the specific nature of military service under martial law, we recommend that the legislative initiative body propose amendments to Article 10-1 of the Law "On Social and Legal Protection of Military Personnel and Their Families" and provide for the possibility of using such types of leave in order to uphold the fundamental principles of social justice.