

Year in review 2023

Labour Law

ARZINGER 20 YEARS

WORK UNDER MARTIAL LAW



The special rules regarding labour relations during martial law in Ukraine under the [Law of Ukraine No. 2136-IX](#) "On the Organization of Labour Relations under Martial Law" remained in force in 2023.

Also the rules implemented by the [Law of Ukraine No. 2434-IX](#) (valid during martial law) on a simplified contractual regime for SMEs, which allows them to regulate certain conditions and deviate from the mandatory norms of the Labour Code of Ukraine in a written agreement (for example, regarding the conditions of employment, working hours, grounds for dismissal, term of the agreement, terms of remuneration, labour norms, working time and rest periods, record keeping) continue to remain in force as well.

MINIMUM WAGE



During 2023, the minimum wage remained at the previous level - **6,700** hryvnias per month and **40.46** hryvnias per hour.

From January 1, 2024, the amount of the minimum wage was increased:
from January 1 – **7,100** hryvnias per month and **42.6** hryvnias per hour, and
from April 1 – **8,000** hryvnias per month and **48** hryvnias per hour.



LEAVES

According to [Law of Ukraine No. 3238-IX](#) dated July 13, 2023, pregnant women are now allowed to choose the start date of leave in connection with pregnancy and childbirth on their own without decreasing the number of days of the total duration of the leave.

Also, the [Law of Ukraine No. 3494-IX](#) dated November 22, 2023, improved some general rules regarding the granting of leaves to employees.

COLLECTIVE BARGAINING

On February 23, 2023, the Verkhovna Rada adopted the long-awaited [Law of Ukraine No. 2937-IX](#) "On Collective Bargaining Agreements". However, due to the martial law in force in Ukraine, most of the provisions of the Law will come into effect only six months after the termination or cancellation of martial law.

In addition to general changes regarding the types of collective bargaining agreements, changes in the approach to determining the content of collective bargaining agreements, as well as regarding the procedure of collective bargaining, the Law proposes some novelties and regulates those important issues for which there was no unequivocal answer before (for example, the issue of joining to the employees' side of the collective bargaining agreement, suspension and termination of collective bargaining agreements, determining the priority of collective bargaining agreements, limiting the effect of collective bargaining agreements concerning employees who are not members of the trade union).

Also, [Law of Ukraine No. 3256-IX](#) dated July 14, 2023, proposes to increase the liability for evading participation in collective bargaining, failure to implement collective bargaining agreements, failure to provide information for conducting collective bargaining and monitoring the implementation of collective bargaining agreements. These changes will also become effective only six months after the termination or cancellation of martial law.

MILITARY SERVICE RECORDS



Starting from January 5, 2023, a new Procedure for organizing and maintaining military registration of conscripts, persons liable for military service and reservists, approved by the Resolution of the Cabinet of Ministers of Ukraine [№ 1487](#) of December 30, 2022, is in force.

The Procedure has changed the approaches to determining the person responsible for maintaining military records and the rules for such records. In particular, in place of the P-2 (П-2) form, military records are now maintained based on **personal military record lists** and **operational records**.

The Procedure also establishes a number of obligations for the constant interaction with the relevant territorial staffing and social support centres (or other bodies where the relevant employees are registered for military service), in particular, regarding the verification of personal military record lists, which may be an important step in the process of reserving employees liable for military service.



RESERVATION OF EMPLOYEES LIABLE FOR MILITARY SERVICE

On **January 31**, the CMU [Resolution No. 76](#) dated January 27, 2023 “Some issues of implementing the provisions of the Law of Ukraine “On Mobilization Training and Mobilization” regarding the Reservation of Persons Liable For Military Service for the Period of Mobilization and Wartime” came into effect.

It approves the:

PROCEDURE FOR RESERVATION OF EMPLOYEES LIABLE FOR MILITARY SERVICE ACCORDING TO THE LIST OF PERSONS LIABLE FOR MILITARY SERVICE DURING MARTIAL LAW

(to replace the procedure under CMU Resolution No. 194 dated March 03, 2022, that was earlier in effect)

PROCEDURE AND CRITERIA FOR DETERMINING ENTERPRISES, INSTITUTIONS AND ORGANIZATIONS THAT ARE CRITICAL FOR THE FUNCTIONING OF THE ECONOMY AND ENSURING THE LIVELIHOOD OF THE POPULATION DURING A SPECIAL PERIOD

Under the new rules:

- Employees shall be reserved according to the decision of the **Ministry of Economy** as per the lists of persons liable for military service offered for reservation for the period of mobilization and wartime, approved by the **General Staff of the Armed Forces** (persons liable for military service who are registered with the Security Service of Ukraine and the Foreign Intelligence Service – according to the lists approved by the Security Service of Ukraine and the Foreign Intelligence Service)
- Employers have the right to **reserve 50 percent of employees liable for military service**. The enterprises, institutions and organizations of the fuel and energy complex, as per the list approved by the Ministry of Energy, are not subject to the restriction on the number of reservable persons liable for military service
- The deferment term may not exceed **six months** (except for employees of state authorities, other state agencies, and local self-governments, when it is necessary to ensure the functioning of the mentioned authorities)
- for such persons, the deferment is granted for the duration of mobilization).

An enterprise is determined as critical (according to a separate procedure) for the functioning of the economy and ensuring the livelihood of the population during a special period based on the following criteria:

- Total amount of taxes, duties, payments accrued, withheld, and paid to the state and local budgets, except for customs duties, as well as the amount of the unified social security contributions paid during the reporting **tax year exceeds the equivalent of EUR 1.5 million**
- Amount of foreign currency receipts, other than loans and borrowings, for the reporting **tax year exceeds the equivalent of EUR 32 million**
- Enterprise **is of strategic importance** for the economy and security of the State as **per the list** of state-owned facilities that are of strategic importance for the economy and security of the State, approved by the CMU Resolution No. 83 of March 4, 2015
- Enterprise is important for a sector of the national economy or for meeting the needs of a local community
- **There are no arrears** in the payment of a single contribution to the obligatory state social insurance
- The average salary of the insured employees at the enterprise for the last calendar quarter is not less than the average salary in the region for the fourth quarter of 2021
- Enterprise **is a resident of Diia City**

The enterprises that are critical for the functioning of the economy and ensuring the livelihoods of the population during the special period include specialized UN agencies, foreign diplomatic missions in Ukraine, representative offices of donor agencies, implementers of international technical assistance projects, representative offices of international organizations, international and Ukrainian non-governmental organizations that implement humanitarian projects at the expense of international partners, according to the list approved by the Ministry of Foreign Affairs or the Secretariat of the Cabinet of Ministers of Ukraine.

REGARDLESS OF THEIR MILITARY RANK, AGE AND MILITARY SPECIALITY, THE FOLLOWING PERSONS ARE SUBJECT TO RESERVATION:

- Persons liable for military service who are managers (and their deputies) of enterprises, institutions and organizations that are critical for the functioning of the economy and the livelihood of the population during a special period
- Employees of enterprises, institutions and organizations of the fuel and energy complex as per the list approved by the Ministry of Energy
- Employees of specialized UN agencies, foreign diplomatic missions in Ukraine, representative offices of donor agencies, implementers of international technical assistance projects, representative offices of international organizations, and international and Ukrainian non-governmental organizations implementing humanitarian projects funded by international partners that are critical for the functioning of the economy and ensuring the livelihoods of the population during the special period

FORECASTS FOR 2024

We foresee that legislative work in 2024 will be carried out regarding rules in force during martial law, including on reservation of the employees liable for military service, as well as regarding updates of the labour legislation in general, as was the case last year.

It is also worth noting that the Ministry of Economy of Ukraine has prepared a new draft of the Labour Code.

