


# DESERTION IN THE CONTEXT OF GENERAL MOBILIZATION: HISTORICAL EXPERIENCE AND MODERN CHALLENGES

*LA DISERZIONE NEL CONTESTO DELLA MOBILITAZIONE GENERALE:  
ESPERIENZA STORICA E SFIDE ATTUALI*

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## ABSTRACT ENG

The general mobilization in response to armed aggression against Ukraine has significantly increased the number of service members in the Armed Forces of Ukraine and other military formations. However, this increase in military personnel accompanies a rise in military criminal offenses, particularly desertion. Desertion remains a pressing issue for the armed forces of any country engaged in active combat operations. Desertion, as a phenomenon, has a long history, with significant cases documented during the First and Second World Wars. At that time, this issue affected the armies of various countries, significantly undermining combat capability and the morale of service members. Desertion from the battlefield during active hostilities negatively influences a unit's moral and psychological condition and cohesion, substantially reducing combat readiness and the ability to fulfill combat missions. A historical analysis of desertion indicates that it results from psychological exhaustion, the continuous nature of combat operations, and harsh service conditions (trench warfare, lack of rotations, etc.). In some cases, desertion serves as a form of protest against political or military decisions made by the command. Desertion is also significant in modern armed conflicts, particularly full-scale war. The level of desertion at different stages of warfare has had a substantial impact on their outcomes and, at times, has reached critical levels. During World War I, desertion was cited as one of the main reasons for the defeat of the empires. Reaching critical levels of desertion can lead to military defeat and even the loss of statehood in Ukraine. The level and dynamics of desertion in the Ukrainian army have prompted the government and military command to de-

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velop effective measures to reduce its occurrence. Historical experience demonstrates that combating desertion is crucial to strengthening military discipline, ensuring resilience, and maintaining the armed forces' combat effectiveness throughout societal development.

**Keywords:** general mobilization; desertion; criminal liability; national security; historical experience; military law; martial discipline; Ukrainian armed forces; Ukraine

#### ABSTRACT ITA

La mobilitazione generale in risposta all'aggressione armata contro l'Ucraina ha comportato un notevole aumento del personale militare. Tuttavia, questo fenomeno è stato accompagnato da una crescita dei reati militari, in particolare della diserzione. La diserzione, fenomeno con radici storiche profonde, incide negativamente sulla coesione, la disciplina e la capacità operativa delle forze armate. Un'analisi storica rivela che le cause principali includono l'esaurimento psicologico, le condizioni estreme del servizio e, in alcuni casi, il dissenso verso le decisioni politiche o militari. Nelle guerre moderne, come nel conflitto attuale in Ucraina, la diserzione può influenzare in modo decisivo l'esito delle operazioni. L'esperienza storica dimostra la necessità di misure efficaci per contrastare la diserzione e rafforzare la resilienza e l'efficienza delle forze armate.

**Parole chiave:** mobilitazione generale; diserzione; responsabilità penale; sicurezza nazionale; esperienza storica; diritto militare; disciplina marziale; forze armate ucraine; Ucraina

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“Each man, no matter how strong mentally and physically, has limits beyond which the strongest will cannot drive him”.

**Charles Glass**

## 1. INTRODUCTION

The proper functioning of Ukraine's Defense Forces largely depends on military discipline among service members. Achieving this requires timely responses to committed offenses, preventing the undermining of the state's defense capability through criminal encroachments on legal relations arising in the activities of military formations, and ensuring the proper protection of the rights and freedoms of service members<sup>1</sup>.

The general mobilization introduced in Ukraine in response to armed aggression has increased the number of service members of the Armed Forces of Ukraine and other military formations established by the law. The growth in the number of military personnel naturally increases military criminal offenses. Among the wide range of military criminal offenses, crimes such as unauthorized abandonment of duty and desertion hold a distinct place.

Desertion, as a phenomenon, has a long history, with significant cases documented during the First and Second World Wars. At that time, this issue affected the armies of various countries, significantly undermining combat capability and the morale of service members. Desertion from the battlefield during active hostilities negatively influences a unit's moral and psychological

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<sup>1</sup> Vdovytchenko, 2019, p. 18.

state and cohesion, significantly reducing combat readiness and the ability to carry out combat missions.

A historical analysis of desertion indicates that it results from psychological exhaustion, the continuous nature of hostilities, and harsh service conditions (trench warfare, lack of rotations, etc.). There are cases where desertion serves as a form of protest against political or military decisions made by the command.

Desertion remains a significant problem in modern armed conflicts, particularly in the ongoing full-scale war. The level of desertion during different periods of war has significantly influenced their outcomes, sometimes reaching critical levels. During World War I, desertion was considered one of the main reasons for the empire's defeat. Reaching critical levels of desertion could lead to military defeat and the loss of statehood in Ukraine. The rate and dynamics of desertion in the Ukrainian army push the government and military command to develop effective measures aimed at its reduction. Historical experience shows that combating desertion is essential to strengthening military discipline, ensuring stability, and maintaining the armed forces' combat effectiveness during a society's historical development.

The number of deserters has devastating consequences for military discipline, as maintaining the balance between discipline and sufficient service members willing to continue fighting is crucial. Studying historical lessons combined with modern approaches to combating desertion is vital for developing effective ways to reduce its occurrence. A comprehensive strategy is essential for preserving the army's combat capability, even under the most challenging conditions.

This article aims to analyze the phenomenon of desertion during general mobilization, considering its impact on the combat effectiveness of armies and social stability. The study covers historical approaches to addressing this issue and modern strategies for its resolution. Particular attention is given to developing mechanisms for strengthening discipline and cohesion within military formations.

## 2. THEORETICAL BASICS

The Criminal Code of Ukraine<sup>2</sup> includes two offenses among the list of similar military criminal offenses infringing upon the same social relations—namely, the established order of military service. Article 407 of the Criminal Code of Ukraine provides for liability for a service member's unauthorized abandonment of a military unit or duty station without the intent to evade military service. At the same time, Article 408 establishes liability for desertion, meaning unauthorized abandonment of a military unit or duty station with the intent to evade military service. In criminal law theory, offenses that are similar, closely related in content, and share common characteristics are called adjacent crimes. Under peacetime conditions, the distinction between these adjacent offenses was clear; for example, if a service member returned to duty after a month of absence, it was treated as unauthorized abandonment. However, in wartime conditions, such absences often extend for significantly longer periods—six months, twenty-four months, or more—thus blurring the distinction (intent) between the two offenses. As a result, differentiating between unauthorized abandonment and desertion becomes increasingly complex, significantly influencing the legal qualification of such acts. Given this similarity, in this study, we will use the term “desertion” as a general designation for both offenses, as its literal translation also conveys the meaning of “abandonment.”

Desertion is subject to different legal regulations across various legal systems, leading to significant differences in approaches to criminal liability. In the French Code of Military Justice, desertion is defined in 321-2–L321-17 articles, which differentiate responsibility based on circumstances: desertion within the country, escape abroad, desertion under combat conditions, desertion using weapons, or while in captivity<sup>3</sup>. Criminal liability is also established for incitement to desertion and its concealment. In the Uniform Code of Military Justice (UCMJ) of the United States, desertion is classified as a serious military offense under Article 85. It encompasses both unauthorized departures from service with the intent

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<sup>2</sup> The Criminal Code of Ukraine, 2001.

<sup>3</sup> French Code of Military Justice, 2024.

to evade duty and cases where a service member submits a resignation request but leaves service before receiving approval. During special periods, particularly wartime, the punishment may include the death penalty<sup>4</sup>. Under British law, cases of desertion fall within the scope of the Armed Forces Act 2006, which allows for the possibility of acquittal if a service member can demonstrate exceptional circumstances, as seen in the case of *Morris v. the United Kingdom*<sup>5</sup>.

In Spain, liability for desertion is established by the Military Penal Code. Article 57 provides for a maximum penalty of one to four years of imprisonment for committing desertion in peacetime, while in the case of desertion committed during an armed conflict, the punishment may range from five to fifteen years of imprisonment<sup>6</sup>. The Italian Republic is governed by the Military Penal Codes of Peace and War, enacted on 20 February 1941. Under Article 149, desertion is punishable by one to seven years of imprisonment. In turn, Article 150 stipulates aggravated liability in cases where desertion is committed abroad or by a group of individuals acting in conspiracy, increasing the penalty by one third to one half<sup>7</sup>. As we can see, the current legislation of European countries imposes rather strict sanctions for deserters.

Thus, a comparative analysis reveals significant differences in the legal regulation of desertion: while national jurisdictions treat it strictly as a military criminal offense, it can serve as grounds for protection at the international level. This reflects differing perspectives on balancing military duties and individual rights<sup>8</sup>.

### 3. ANALYSIS OF LATEST RESEARCH

The issue of desertion has been the subject of numerous academic studies, ranging from jurisprudence to sociology and military history. There has not been a single military conflict without deserters, which indicates the existence of both structural and per-

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<sup>4</sup> United States. Uniform Code of Military Justice (UCMJ), 2024.

<sup>5</sup> European Court of Human Rights (Third Section), *Morris v. the United Kingdom*, 2002.

<sup>6</sup> Military Penal Code, 2015.

<sup>7</sup> Military Penal Codes of Peace and War, 1941.

<sup>8</sup> Huchenko, 2023, pp. 1–13.

sonal factors that drive service members to abandon their duties. Research suggests that a combination of psychological stress, harsh service conditions, and ideological disillusionment with the necessity of war often causes desertion. History records various measures governments and military leadership took to reduce desertion rates, ranging from execution to enhanced control and morale-boosting efforts. The ongoing full-scale war has unique characteristics, requiring a balance between strengthening accountability and implementing comprehensive support measures to foster cohesion within military units. Theoretical approaches to the issue of desertion focus on historical examples, legal aspects, and modern strategies for minimizing this phenomenon within the armed forces.

Similar processes are observed in other fields related to discipline in service, particularly in law enforcement agencies. Sandra Sánchez et al., in their study on the issue of desertion among cadets in police training institutions, analyzed the key factors that lead to dropping out before completing the training. The authors applied a quantitative approach, using data from 2022–2023 at the University of Security Sciences of the State of Nuevo León (Mexico), and found that the main reasons for discontinuing training included family circumstances, difficulties adapting to the police training regimen, physical injuries, and the appeal of alternative educational and professional opportunities. Based on the findings, the study proposes a strategy to reduce the desertion rate by improving cadet support programs, developing adaptation mechanisms, and enhancing training conditions<sup>9</sup>.

The study by Javad Ashtiyani et al. revealed that desertion among military personnel is driven by three main factors: personal, external, and intra-organizational. Personal reasons include low-stress resilience, emotional dependency, difficulties in adapting to military conditions, a tendency toward risky behavior, and disciplinary issues. External factors encompass financial difficulties, family problems (such as the loss of loved ones or parental divorce), and illnesses affecting the service member or their relatives, and geographic isolation due to remote deployment locations. Organizational causes are associated with rigid or unfair management

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<sup>9</sup> Sánchez, Mandujano, Vera, 2024, pp. 134–147.



practices, poor living conditions, disregard for soldiers' needs, and insufficient support from leadership. The study's findings emphasize the need for a comprehensive approach to addressing desertion, including improving service conditions, enhancing personnel management systems, and strengthening psychological support. These measures can help reduce stress and mitigate the risk of military personnel fleeing their service<sup>10</sup>.

The study on desertion during the civil war in Greek Macedonia (1916–1917) conducted by Rodriguez Zoffmann demonstrates that social, political, and national factors significantly influenced soldiers' decisions to abandon service. The author concludes that desertion served as a form of protest against forced conscription and the government's repressive policies, which, in turn, contributed to the escalation of the civil conflict in the region<sup>11</sup>. Sylkatis Scott, analyzing the issue of sentencing disparities in cases of desertion and unauthorized absence in the U.S. Army, examines the case of Private Edward «Eddie» Slovik—the only American soldier executed for desertion during World War II. The study highlights that such inconsistencies in sentencing undermine trust in military justice and calls for the standardization of punishments by the Uniform Code of Military Justice<sup>12</sup>. The issue of inconsistency and inequality correlates with the findings of Lyall Jason. The author analyzes data on 825 participants in 250 wars between 1800 and 2011, revealing that approximately half experienced mass desertion, with over 10% of their personnel abandoning service. The main conclusion is that increasing inequality within military units before the onset of war significantly raises the likelihood of mass desertion during combat<sup>13</sup>.

Among other factors, the role of social networks in facilitating military disobedience and desertion during civil conflicts is particularly noteworthy; Kevin Koehler et al. argue that horizontal ties between soldiers, as well as their connections with civilians, create channels for information dissemination and coordination of actions, thereby facilitating acts of defiance and desertion. The

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<sup>10</sup> Ashtiyani, Keysomi, Jahandari, Amir, 2022, pp. 319–331.

<sup>11</sup> Zoffmann, 2024, pp. 1–19.

<sup>12</sup> Scott, 2006, pp. 1–17.

<sup>13</sup> Jason, 2016b, pp. 465–497.



author emphasizes that monitoring these networks is crucial in developing effective strategies for preventing desertion and maintaining discipline within the armed forces<sup>14</sup>.

It should be noted that the theme of desertion has also been addressed in fiction, e.g. Stephen Crane, *A Desertion* (1900); Zénaïde Marie Anne Fleuriot, *La Désertion* (1884); Abdulrazak Gurnah, *Desertion* (2005). However, these works represent literary or sentimental interpretations of the phenomenon, rather than legal-historical analyses.

## 4. RESULTS AND THEIR DISCUSSION

### 4.1. *Historical Background: Analysis of the Historical Experience of Desertion in World Wars Based on Open Sources*

The reviewed scientific studies on desertion across different historical periods indicate that it has been a serious problem for the armies of many countries. Soldiers deployed to the front often-experienced severe physical and psychological exhaustion, significantly weakening their morale and psychological resilience. Additionally, in cases of civilian mobilization, many conscripts were unaccustomed to the hardships of military service, leading to doubts, demotivation, and, ultimately, a tendency to abandon their duty.

Using a chronological approach, we will attempt to shed light on desertion from various armies in different historical periods.

Ronnie Haidar, a researcher of the Seven Years' War, notes that one of the ways soldiers sought to resolve their problems and escape the horrors of military experience was through desertion. The most significant concern of the British military regarding desertion was the loss of workforce, as the size of the army directly reflected its power—more soldiers meant greater firepower. Desertion weakened the army and jeopardized the state's military status, which is why it was considered such a reprehensible act deserving of the death penalty<sup>15</sup>. As we can see, desertion was

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<sup>14</sup> Koehler, Ohi, Albrecht, 2016, pp. 439–457.

<sup>15</sup> Haidar, 2021, pp. 16, 26.

regarded as an unacceptable act of soldierly behavior, prompting active preventive measures to counter it.

Ronnie Haidar notes, «British soldiers deserted during the Seven Years' War for various reasons». Citing Arthur Gilbert (1980), he argues that one of the issues contributing to desertion was the terms of mobilization.

During wartime, soldiers were recruited for a fixed period or the duration of the conflict, but lost documents, poor record-keeping, and the soldiers' lack of awareness and experience meant that officers could keep people in their units beyond the designated term<sup>16</sup>.

Critics of mobilization in Ukraine also argue that the absence of clear service terms contributes to desertion.

As we can see, the duration of a war always creates psychological pressure on soldiers. Inadequate support from the command and the inability to adapt lead to deep emotional stress. One way to overcome this was desertion. It became the only way out for some, even if it meant risking their lives or freedom.

Ennio Piano and Louis Rouanet, studying desertion in post-revolutionary France between 1799 and 1805, established that geographical factors, such as a significant portion of the territory being above 500 meters in elevation, mountainous terrain and access to the sea, had a statistically significant positive impact on desertion rates, as they facilitated easier escape and concealment. At the same time, the presence of military bases and a high level of urbanization reduced desertion rates by strengthening administrative control and making it more difficult to hide in urban environments. However, such factors are no longer relevant in modern warfare, which is mainly fought in highly urbanized areas. Additionally, an increase in the proportion of mobilized (non-professional) soldiers in a unit correlates with a higher desertion rate. In that period, this was linked to the growing economic attractiveness of civilian labor, which is also less relevant in contemporary warfare. The findings demonstrate that desertion in Napoleonic France was a complex phenomenon driven by socio-economic, administrative, and geographical factors<sup>17</sup>.

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<sup>16</sup> Right there.

<sup>17</sup> Piano and Rouanet, 2019, pp. 169–183.

Protests as a reason for desertion are also described in historical literature<sup>18</sup>. Ukraine has also witnessed a case of public desertion as a form of protest. In September 2024, a service member of the 56th Separate Motorized Infantry Brigade, Serhii Hnezdilov, publicly left his military unit without authorization and called on Ukraine's military command to establish clear mobilization terms<sup>19</sup>. Accurately determining the quantitative indicators of desertion in various historical periods is challenging. We can only rely on available sources. For example, the average size of the British Corps between 1804 and 1815 was 188,724 personnel (or 2,264,688 in total over the entire period). During this time, 61,418 soldiers deserted, averaging 5,118 per year, which accounted for 2.71% of the total force. According to Linch, this figure was not catastrophic but significant enough to warrant attention<sup>20</sup>.

Alexander Grab, in his study of conscription and desertion in Napoleonic Italy (1802–1814), concluded that military recruitment faced widespread resistance even in the Italian Republic–Kingdom, where thousands of conscripts evaded enlistment, deserted, and rose up in rebellion—often with the support of their families and local communities. As the author notes, despite resistance to conscription, army service inspired some soldiers to develop a sense of national identity, thereby contributing to the early foundations of the Italian *Risorgimento*. The persistent and widespread opposition to the draft clearly demonstrated that the process of transforming peasants into Italians had only just begun during the Napoleonic era<sup>21</sup>.

Lorraine White, examining the experiences of early modern Spanish soldiers who served in the armies of the Spanish monarchs between 1500 and 1700, also highlights a high level of desertion. One of the primary reasons identified by the author is the extremely low wage paid to the common soldier (1 real), from which deductions were made for his food—excluding only the daily bread ration, shot, and powder he consumed. The salary, it turns out, was significantly lower than that of even an agricultural

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<sup>18</sup> Linch, 2016, p. 820.

<sup>19</sup> Kopytko, 2024.

<sup>20</sup> Linch, 2016, pp. 808–828.

<sup>21</sup> Grab, 1995, pp. 25–54.

day laborer. At the same time, White rightly points out that «the experiences of Spanish soldiers were little different from those of their contemporaries throughout western Europe»<sup>22</sup>.

#### 4.1.1 DESERTION IN SPAIN DURING THE WARS OF THE SPANISH MONARCHY (16TH–17TH CENTURIES)

In the 16th and 17th centuries, Spain was engaged in a series of protracted conflicts: chiefly the Eighty Years' War in the Low Countries (1568–1648), as well as campaigns in Italy and North Africa. The backbone of the Habsburg army was the professional infantry formation known as the *tercio*, which depended on regular subsidies from the royal treasury<sup>23</sup>.

Spanish foot soldiers received roughly one real per day ( $\approx 34$  *maravedís*), yet up to 25 % of this wage was routinely deducted to cover food, equipment, and other supplies<sup>24,25</sup>. Such pay fell far below what rural labourers earned for a day's work, prompting many recruits to seek desertion as a means of securing a better livelihood<sup>26</sup>.

Chronic delays in payment—sometimes lasting months or even years—fanned the flames of discontent and led to open mutinies. The most notorious instance occurred in 1576, when unpaid *tercios* seized Antwerp in the “Spanish Fury”, looting the city to compel authorities to settle their arrears<sup>27</sup>.

Legal sanctions for desertion varied by region under local *fueros* (municipal and regional laws). Common penalties included fines, shortterm imprisonment, or compulsory labour; capital punishment was invoked only in wartime emergencies or mass rebellions as a lastresort deterrent. In jurisdictions such as Navarre, authorities frequently declined to extradite deserters who could demonstrate flight due to hunger, injury, or pressing family needs<sup>28 29</sup>.

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<sup>22</sup> White, 2002, pp. 1–38.

<sup>23</sup> Johnston, 2017, pp. 688–708.

<sup>24</sup> Segal, 1999, pp. 24–36.

<sup>25</sup> Marks, 2002, pp. 184–201.

<sup>26</sup> Pomeranz, 2016, pp. 87–116.

<sup>27</sup> Rosas Limiñana, 2017, pp. 471–492.

<sup>28</sup> White, 2002, pp. 1–38.

<sup>29</sup> Stewart, 1969, pp. 281–292.

Administrative corruption compounded the problem: unreliable or overburdened paymasters maintained “dead pay” rolls for nonexistent soldiers, diverting funds and exacerbating backpay arrears. Contemporary accounts record entire companies refusing orders until their wages were paid, effectively transforming desertion into a collective bargaining tool.

Thus, desertion in Habsburg Spain was driven primarily by socio-economic pressures. Irregular and insufficient pay, together with fragmented legal regulation, made military service a burdensome obligation. In this context, desertion functioned less as ideological rebellion than as a desperate act of selfpreservation.

#### 4.1.2 DESERTION DURING THE SEVEN YEARS' WAR (1756–1763)

The Seven Years' War, which pitted Britain against France across Europe, North America and India, placed immense strain on the British Army. Enlistments were contracted «for the duration» with no fixed term of service, creating pervasive uncertainty and undermining morale. Many soldiers deserted not out of cowardice but from despair at openended commitments<sup>30</sup>.

Material hardship compounded the problem. A private's nominal daily wage was one shilling, yet deductions of up to 20 percent for rations, kit and medical care often reduced his real income below what a rural labourer earned in a single day<sup>31</sup>. Faced with negative real wages, desertion became a rational means of self-preservation<sup>32</sup>.

Conditions in colonial theatres were even more severe. In North America, regiments such as the 44th Foot recorded desertion rates exceeding 10 percent within six months of deployment, driven by harsh winters, disease and isolation from home. Entire companies sometimes refused orders until back pay was settled, effectively using the threat of mass desertion to negotiate better conditions.

Legally, the Mutiny Act of 1757 (30 Geo II, c. 18) prescribed death or penal servitude for repeat offenders, yet commanders frequently imposed fines, forfeiture of pay or confinement to

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<sup>30</sup> Sigel, 2006, pp. 493–494.

<sup>31</sup> Gilbert, 1980, pp. 553–567.

<sup>32</sup> Piano and Rouanet, 2019, pp. 169–183.

barracks in order to retain experienced men<sup>33</sup>. In many colonial garrisons, firsttime deserters were allowed to return on a written pledge not to abscond again, reflecting a pragmatic balance between discipline and manpower needs.

To deter further desertions, field officers instituted rollcalls at dawn and dusk, perimeter patrols and informant networks to recover absentees. Nevertheless, flexible enforcement prevailed: harsh statutes coexisted with leniency when regiments faced acute shortages. Desertion during the Seven Years' War thus reflected a complex interplay of contractual ambiguity, economic hardship and environmental adversity—managed less through draconian punishment than through adaptive command practices.

#### 4.1.3 DESERTION DURING THE NAPOLEONIC WARS (1799–1815)

Napoleon's mass levy, the *levée en masse*, expanded France's armies to over 700,000 men by 1805 and nearly two million by 1812. Most recruits were drawn from rural départements, lacked military experience and found themselves isolated from home. Gruelling marches, inadequate rations and severe climate rapidly sapped their physical and mental endurance<sup>34</sup>. Units stationed in Alpine provinces or along the Mediterranean recorded desertion rates as high as 30 percent annually—versus 6-8 percent in interior garrisons, where escape routes were fewer and oversight stricter<sup>35</sup>.

In the Italian theatre, first under the Cisalpine Republic (1797–1802) and then the Kingdom of Italy (1805–1814), French authorities imposed a similar conscription model. Alexander Grab's investigation reveals that roughly 120,000 men were conscripted by 1806, of whom 12–15 percent deserted each year<sup>36</sup>. Local support networks—carbonari, charcoal burners and shepherds—secreted deserters in mountain hideouts and guided them across Alpine passes into Austrian or Swiss territory. Many subsequently joined partisan brigand bands ("*briganti*"), transforming desertion into a form of popular resistance.

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<sup>33</sup> Parliament of Great Britain, 1706.

<sup>34</sup> Grab, 2013, pp. 1–132.

<sup>35</sup> Grab, 2013, pp. 45–48.

<sup>36</sup> Grab, 1995, pp. 25–54.

French military law, codified in the Penal Code of 1804, prescribed five to ten years of forced labour for firsttime desertion and death for recidivism. In practice, however, marshals of the Grande Armée, confronted with chronic manpower shortages, frequently commuted sentences to fines, remitted punishments for those who pledged to return within thirty days, or simply accepted written oaths of allegiance.

The disastrous Russian campaign of 1812 saw desertion spike: approximately 8 percent of Napoleon's forces deserted during the advance, swelling to over 15 percent in the retreat<sup>5</sup>. Italian contingents mirrored these figures, with only about 70 percent of the original detachments returning to France. These patterns demonstrate that desertion in the Napoleonic era reflected structural stressors—overextended supply lines, inadequate provisioning and continuous conscription—and an enforcement regime that balanced harsh statutes with pragmatic leniency<sup>37</sup>.

#### 4.1.4 OVERVIEW OF DESERTION IN WORLD WAR I

One of the primary reasons for desertion during World War I was the grueling nature of trench warfare, which trapped soldiers in an endless cycle of physical and emotional suffering. Constant artillery bombardments and months spent in the trenches, surrounded by unsanitary conditions and infections, pushed even the strongest soldiers to their limits. Inadequate supplies, daily losses of comrades, and the feeling that the war would never end created an atmosphere of despair. Such horrific conditions compelled many to abandon their positions despite the threat of execution or other severe punishment. Commanders often ignored the emotional state of their subordinates, focusing solely on carrying out orders, which further deepened the sense of isolation and indifference.

In Germany, debates about desertion carry a highly moral and political dimension, mainly due to several attempts to recognize desertion as a form of resistance to National Socialism. This reevaluation of deserters faced significant resistance within West German society, primarily based on an implicit or explicit moral devaluation of deserters as «failures» or «traitors» to their com-

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<sup>37</sup> Forrest, 1989, pp. 1–294.



rades. Such prejudices can be linked to psychological stereotypes that were already prevalent after World War I, according to which the so-called «inferior» idlers and deserters, who had allegedly stabbed the German army in the back, were held responsible for the defeat in 1918. Desertion was significantly more common among Poles and members of the Alsace-Lorraine region<sup>38</sup>.

Benjamin Ziemann, studying desertion among Wehrmacht soldiers, provides data indicating that the number of troops seeking refuge in Belgian and northern French deployment areas likely remained relatively low until the end of 1917. However, by mid-1918, their numbers were already estimated at 30,000. In the major cities of the Reich, as the end of the war became evident, the scale of desertion was even more striking. In Cologne and Berlin alone, authorities discovered 30,000 and 20,000 deserters, respectively, who were hiding with relatives or acquaintances<sup>39</sup>.

When it became clear that the war would last much longer than expected, many soldiers began to see it not as a heroic adventure but as a catastrophe threatening their lives<sup>40</sup>. Turning to Ukraine, it is essential to note that similar sentiments have emerged among Ukrainian soldiers. This trend has been observable from the beginning of the war through the end of 2024. While 9,397 criminal cases for desertion were recorded by the end of 2022, this number had already risen to 12,776 by the first quarter of 2024 (Figure 1).

To reduce the level of desertion, the German command resorted to extreme measures such as mining fields, deploying patrols with dogs, and even installing high-voltage fences. Ultimately, Benjamin Ziemann concludes that in the early years of the war, the number of deserters did not threaten the structure of the multi-million-strong army. Approximately 13.3 million men were mobilized between 1914 and 1918, making even 100,000 deserters a small minority. However, the number of deserters skyrocketed dramatically in the short period between July and November 1918<sup>41</sup>. This surge was primarily driven by profound disillusionment caused by the widespread and final realization of inevitable

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<sup>38</sup> Ziemann, 1996, p. 94.

<sup>39</sup> *Ibidem*, p. 96.

<sup>40</sup> Lein, 2024.

<sup>41</sup> Ziemann, 1996, p. 102.

defeat, alongside the growing movement advocating for an end to the war as soon as possible.

In the Imperial and Royal Army, stability was maintained through the threat and application of brute force. Any actual or perceived violation of the military code of conduct could lead a soldier to a military tribunal, which often sentences the accused to execution merely to set an example for other soldiers<sup>42</sup>.

The Ottoman Empire participated in World War I on the side of Austria-Hungary. The general mobilization in the Ottoman Empire led to desertion becoming a form of protest. The scale of this problem was so significant that it threatened the empire's ability to conduct military operations, making it one of the primary threats to its military stability. Although desertion affected all ethnic and religious groups, the majority of deserters were Anatolian Muslims and Turks, who were supposed to form the backbone of the army. This situation created serious difficulties for the command, undermining trust in the most numerous contingent of troops<sup>43</sup>.

Neither the resolute Ottoman-Turkish official and cultural condemnation of desertion nor strict criminal laws and references to Islamic prohibitions against evading military service could prevent desertion from becoming a serious problem. Although nearly all detained deserters expressed regret for their actions, they explained that desertion was a last resort when conditions became unbearable. Despite the obligation of a potential conscript to report for military service, this duty was fulfilled only as long as certain fundamental expectations—such as the provision of basic daily needs, fair treatment, reasonable service duration, continued belief in the legitimacy of service, and support for their families during their absence—were adequately met<sup>44</sup>.

In the army of the Russian Empire, desertion began almost immediately after mobilization. At the outset of the war, the harshest punishments for desertion were fines or imprisonment. However, incarceration was to be enforced only after the war had ended; until then, soldiers typically continued to serve in their original units, though stripped of certain privileges and with the possibility

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<sup>42</sup> Lein, 2024.

<sup>43</sup> Beşikçi, 2017.

<sup>44</sup> Right there.

of having their sentence revoked if they demonstrated good conduct. This effectively meant that even if apprehended, a deserter faced minimal consequences.

In January 1915, however, the authorities decided to intensify the penalties: a second desertion attempt now carried a sentence of 20 years of hard labor, and a third offense was punishable by execution<sup>45</sup>. As we know, this escalation of punishment failed to save the Empire from collapse. By December 1916, the situation had deteriorated to the point where, out of a Russian army numbering just under seven million, approximately two million soldiers were prisoners of war, and more than half a million had deserted. When the death penalty and corporal punishment were abolished by order of the Provisional Government following the February Revolution (8-12 March 1917), the army began to rapidly disintegrate. The majority of desertions occurred during this period<sup>46</sup>.

During the First World War, measures were taken on the territories of the empires to combat desertion, but the military leadership failed to establish effective control over deserters. During the February Revolution and the October coup, deserters played a crucial role in the army's disintegration. The spontaneous actions of soldiers unwilling to fight fully aligned with revolutionary movements, ultimately influencing transformations in the military and reshaping the entire territory.

#### 4.1.5 OVERVIEW OF DESERTION IN WORLD WAR II

During World War II, desertion became even more complex and multifaceted, influenced by military and political factors. Propaganda campaigns aimed at boosting morale clashed with the harsh realities of the front, creating internal conflicts among soldiers. The prolonged and brutal combat led to severe psychological exhaustion, exacerbated by the fear of capture or death. Under such conditions, desertion was an act of desperation and an attempt to escape an unbearable reality that seemed inescapable.

A researcher on desertion in the American army Glass, states that nearly 50,000 American and 100,000 British soldiers deserted

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<sup>45</sup> Kuldkepp, 2016, pp. 9–40.

<sup>46</sup> Right there.

from the armed forces during World War II. The number of British deserters was higher because they had been at war for much longer. Thousands of American soldiers were convicted of desertion during the war, and 49 were sentenced to death (although their sentences were later commuted to hard labor). Only one soldier was executed—Private Edward Slovik from Detroit<sup>47</sup>.

Desertion in communist military formations at the beginning of the war also reached alarming proportions. According to various researchers, official records from the People's Commissariat of Internal Affairs (NKVD) indicate over 700,000 deserters<sup>48</sup>. Punishment for desertion in the communist forces was severe—the highest measure (execution). It is impossible to determine the exact number of deserters in the communist military formations during World War II, but various sources estimate that military tribunals sentenced approximately 2.5 million people, including 1.43 million deserters. Throughout the war, more than 150,000 people were executed<sup>49</sup>.

The communist authorities employed various strategies to combat desertion, ranging from the threat of execution to the use of barrier units. Their comrades killed over 158,000 soldiers between 1941 and 1944<sup>50</sup>. These barrier troops operated by apprehending retreating troops and sending them back to the frontline<sup>51</sup>. The desertion rate in communist military formations declined after 1943, reaching a minimum in 1944-1945. This was due to soldiers sensing the approaching victory, which significantly improved their morale and psychological resilience compared to the early years of the war. At that point, the Wehrmacht army took over the pattern of desertion.

#### 4.1.6 EVOLUTION OF LEGAL FRAMEWORKS GOVERNING DESERTION

In the early modern period, sanctions for desertion were set locally and differed by jurisdiction: in Spain, the *fueros* generally imposed fines, public humiliations, or forced labor, but rarely the

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<sup>47</sup> Glass, 2013a; Glass, 2013b.

<sup>48</sup> Contemporary news, 2025.

<sup>49</sup> France24, 2020.

<sup>50</sup> Jason, 2017, p. 89.

<sup>51</sup> Axe, 2022.

ultimate penalty<sup>52</sup>, whereas in the territories of the Holy Roman Empire the electors enacted their own statutes—in Bavaria a deserter could receive life imprisonment, while in Prussia the punishment was confined to a fine equal to four months' pay<sup>53</sup>. Against this backdrop of fragmentation, Great Britain passed the Mutiny Act of 1689, which equated desertion with insubordination and conspiracy against military authority and introduced the death penalty even in peacetime, administered solely by court-martial<sup>54</sup>; subsequent Mutiny Acts further tightened discipline until the Army Act of 1881 finally codified all procedures and sanctions. The first attempt to centralize punishments in France was the Convention decree of 23 August 1793 on the *levée en masse*, which combined general conscription with multiple, though regionally varied, penalties; lasting uniformity was secured by the Criminal Code of 1804, which classified desertion as a serious crime punishable by five to ten years of hard labor for a first offense and by death for recidivism<sup>55</sup>.

During the Seven Years' War (1756–1763), the British Army strengthened military justice by placing courtsmartial at the heart of its disciplinary system. Although capital punishment for desertion remained on the books, it was reserved almost exclusively for repeat offenders or for soldiers guilty of overt insubordination during active operations. In practice, most deserters received fines, forfeiture of rations or sentences of hard labour—penalties that, while severe, were frequently commuted or mitigated to preserve manpower. Ronnie Haidar's examination of courtmartial records shows that only about onethird of those tried for desertion received a death sentence, and only a small fraction of those sentences were carried out, with the remainder reduced to imprisonment or noncapital punishments<sup>56</sup>.

Haidar further documents how chronic grievances over unpaid rations, harsh winter quarters, and physical abuse contributed to desertion, as lowerranks felt their complaints went unheard by

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<sup>52</sup> Parliament of England, 1689.

<sup>53</sup> Parliament of the United Kingdom, 1881.

<sup>54</sup> France, *Convention nationale*, 1793.

<sup>55</sup> Piano and Rouanet, 2019, pp. 169–183.

<sup>56</sup> Haidar, 2021, pp. 1–72.

officers. Despite these hardships, overall desertion rates among British regulars remained relatively low—around 4 percent per annum—compared with continental armies, where figures could reach 20 percent in French units and 6-7 percent in Austrian forces. Thus, British courtsmartial during the Seven Years' War exemplified a balance between deterrence and flexibility: the threat of execution upheld formal discipline, but mitigated sentences reflected the army's critical need to retain trained soldiers<sup>57</sup>.

During the Napoleonic Wars, lawmakers balanced severity with pragmatism. Although France's 1804 Penal Code formally prescribed five to ten years' forced labour for firsttime deserters (Article 104) and the death penalty for repeat offenders (Article 105), marshals of the Grande Armée routinely adapted these provisions to wartime realities. Confronted with chronic manpower shortages and an overstretched administration, they often commuted sentences to fines or accepted written pledges from deserters promising to rejoin their units—prioritising operational effectiveness over exemplary punishment<sup>58</sup>.

Napoleon's satellite Kingdom of Italy adopted a similar approach. King Joseph Bonaparte's decree of 24 Thermidor Year XII (12 August 1804) granted conditional amnesty to deserters who returned within thirty days. Those who complied avoided forced labour and were reinstated without further penalty. As Alexander Grab observes, these measures not only bolstered troop numbers but also alleviated social tensions in rural areas, reducing desertion's appeal as a form of passive resistance<sup>59</sup>.

During World War I, the British Army's disciplinary framework remained anchored in the Army Act 1881, supplemented by the Defence of the Realm Act 1914 and the Field Service Regulations. Although these statutes prescribed punishments for desertion ranging from lengthy imprisonment to death, in practice most sentences were commuted or substituted with fines, forfeiture of rations, or service in penal battalions and disciplinary camps<sup>60</sup>. Of the 3,080 soldiers who received death sentences for military of-

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<sup>57</sup> Haidar, 2021, pp. 1-72.

<sup>58</sup> Grab, 1995, pp. 25-54.

<sup>59</sup> Grab, 2013, pp. 1-132.

<sup>60</sup> National Archives, n/d.

fences, only 346 were actually executed; the remainder were reprieved or had their penalties reduced<sup>61</sup>.

In the German Empire, the *Reichsstrafgesetzbuch* of 1871 (*Reichsgesetzblatt* I, Nr. 12/1871) criminalized desertion with penalties up to longterm imprisonment and, in extreme cases, execution, yet military tribunals frequently reassigned convicted soldiers to penal battalions<sup>62</sup>. Similarly, Austria-Hungary's k.u.k. *MilitärStrafgesetz* of 19 May 1909 (k.u.k. RGBL. Nr. 109/1909) stipulated severe sanctions for desertion, but most offenders were instead sent to disciplinary camps or transferred to special service units<sup>63</sup>. Faced with critical manpower shortages, commanders increasingly preferred these pragmatic measures over strict enforcement of capital penalties.

During World War II, the Soviet Union's response to desertion was formalized in two Supreme High Command decrees. Decree No. 270 (16 August 1941) classified any officer or political commissar who surrendered or discarded their insignia as a «malicious deserter», authorizing their immediate execution and the arrest of family members<sup>64</sup>. One year later, Decree No. 227 («Not a Step Back!»; 28 July 1942) mandated the establishment of penal battalions and barrier troops to stop unauthorised retreats<sup>65</sup>. In Nazi Germany, military justice under the *Wehrstrafgesetzbuch* empowered field tribunals to pass summary death sentences on troops who abandoned their positions, while specially formed *Sperrgruppen* in the rear zones intercepted and executed deserters<sup>66</sup>.

In summary, the legal regulation of desertion evolved from fragmented local statutes to unified imperial and national military codes that combined strict punitive measures with practical flexibility. Each major conflict—from the Seven Years' War through World War II—compelled lawmakers to strike an optimal balance between deterring mass flight and preserving combat effectiveness, substituting exemplary executions with conditional amnesties and penal units whenever rigid enforcement threatened to deplete manpower.

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<sup>61</sup> Military crimes 1914–1918: British Army, n/d.

<sup>62</sup> Deutsches Reich, 1871, pp. 1–768.

<sup>63</sup> Austria-Hungary, 1909, pp. 1001–1023.

<sup>64</sup> Mann, Yan, 2021, pp. 326–329.

<sup>65</sup> *Ibidem*.

<sup>66</sup> No mercy, 2025.



## 4.2. The State and Dynamics of Desertion from the Ukrainian Army

Ukraine has been engaged in a brutal war for three years, with Ukrainian soldiers constantly under stress, battling both death and military discipline. However, desertion directly affects the combat effectiveness of military units, as the loss of personnel reduces their ability to carry out missions. A decrease in troop numbers disrupts the standard structure, significantly complicating leadership and unit coordination. Understaffed military units experience a decline in combat readiness. Over time, these issues become more severe, leading to a general reduction in the armed forces' overall combat capability.

According to the Office of the Prosecutor General, in the pre-war year of 2021, 2,145 criminal offenses for "desertion" were recorded. In 2022, this number increased by over 438% (9,397 cases). By 2023, the number of recorded criminal offenses for such crimes had risen to 24,286, reflecting a 273% increase compared to the previous year. In the first half of 2025, there was a sharp increase in the number of desertions: 52,303 criminal proceedings were registered in the first quarter, and 55,369 proceedings in the second quarter of 2025 (Figure 1).

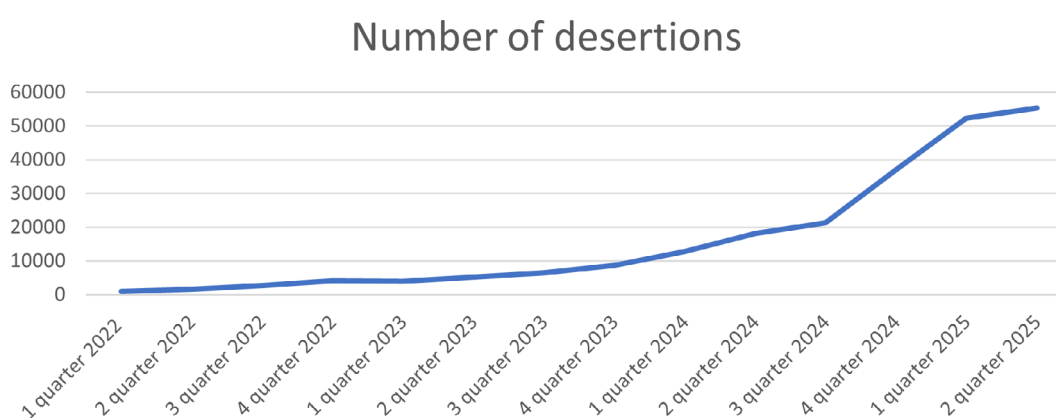


Figure 1. Cumulative Scale of Desertion in the Ukrainian Army

In response to this negative trend, the legislative body registered and subsequently adopted the Law of Ukraine "On Amendments to the Criminal Code of Ukraine, the Code of Ukraine on Administrative Offenses, and Other Legislative Acts of Ukraine Regarding the

Specifics of Military Service Under Martial Law or in Combat Conditions.” This law gained a negative connotation under the informal name “On Strengthening Criminal Liability of Military Personnel.”

The authors’ central argument of the bill was that many cases related to the specified offenses (unauthorized departure of a service member from a military unit or place of service, desertion) are considered in criminal and administrative proceedings. The inconsistent judicial practice in handling such cases fosters negative behavior among military personnel. It undermines the principle of the inevitability of fair punishment for offenses related to unauthorized departure from an army unit during the performance of military duties<sup>67</sup>.

The authors and developers of the bill believed that its implementation would improve military discipline and ensure proper law and order under martial law or in combat conditions. They argued that the law would enhance military units’ combat readiness and ability to carry out assigned tasks. Ultimately, the goal was to strengthen the army’s effectiveness in defending the Fatherland<sup>68</sup>.

The Ministry of Defense of Ukraine and the General Staff of the Armed Forces of Ukraine publicly supported the bill. The amendments came into force in January 2023 and were expected to yield results. However, to assess their effectiveness, we must use official statistics (Figure 1). In 2023, 24,286 criminal offenses for desertion were recorded. However, why is this happening? Unfortunately, there are no simple answers. There are many reasons for this, and covering them within a single study is impossible.

One of the reasons is the failure of commanders to properly fulfill their duties, amounting to the inaction of military authorities. A notable example is the case of the commander of the 155th Brigade, «Anna of Kyiv», which was formed with the support of the French Republic’s government. In January 2025, the brigade’s commander, Colonel Dmytro Riumshyn, was officially charged with concealing the desertion of his subordinates.

Researcher Ilya Berkovich notes that inconsistent disciplinary actions by commanders give soldiers the impression that they can

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<sup>67</sup> Draft Law of Ukraine, 2022.

<sup>68</sup> Right there.

influence how they are treated<sup>69</sup>. Extrapolating this thesis, it can be argued that inadequate responses from the command to violations of military discipline ultimately lead to widespread cases of desertion. According to journalists covering the 155th Mechanized Brigade «Anna of Kyiv», 1,700 soldiers deserted before the unit even entered combat. More than 50 of them committed this act while in France for training. Most of the deserters were recruits with no prior military or combat experience. Of the 1,924 service members sent to France, only 51 had more than a year of military service, 459 had served for less than a year, while the majority—1,414—had been enlisted for less than two months. Additionally, around 150 soldiers were sent to France without even completing basic military training<sup>70</sup>.

Cases of desertion often serve as a negative example for other service members, reinforcing an atmosphere of instability and a lack of respect for military leadership. It leads to further demoralization when soldiers doubt their commanders' ability to provide proper service conditions, protection, or fair treatment. If the command fails to take timely action, the problem escalates, creating a domino effect that exacerbates disciplinary violations and threatens army cohesion.

Mass desertion not only undermines the internal stability of the armed forces but also jeopardizes national security. A decline in trust in the military can cause panic among the civilian population, which, in turn, may encourage enemy offensives. Additionally, the need to mobilize extra resources to compensate for personnel losses further weakens the country's ability to counter emerging threats.

The problem with newly formed brigades is that many of their personnel were not volunteers, resulting in low cohesion within these military units. Theodore McLauchlin describes the issue of mutual trust, stating that if a group of people can trust each other enough to develop shared norms of cooperation, they can sustain collective action. The author confirms that forming such cooperation norms among combat participants who trust one another

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<sup>69</sup> Berkovich, 2014, pp. 114–130.

<sup>70</sup> Sushkova, 2025.

directly influences the desertion rate<sup>71</sup>. In Ukraine, some military units, such as the Third Assault Brigade and the Azov Regiment, have minimal desertion. Their approach to recruitment and personnel management contributes to these positive results. For instance, the Third Separate Assault Brigade has expanded its recruitment efforts by opening centers in Odesa, Dnipro, Lviv, and Kyiv. Since their launch, nearly 10,000 applications from potential recruits have been processed. The training includes theoretical and practical sessions, ensuring high combat readiness<sup>72</sup>. The Azov Regiment implements innovative recruitment methods, collaborating with the Work.ua platform to attract specialists from various professions. Under the slogan «The military needs all professions», this initiative aims to broaden the range of experts within the regiment, enhancing its functionality and effectiveness<sup>73</sup>. Both units achieve high combat efficiency through recruitment and training strategies while minimizing desertion rates. Careful selection, intensive training, and the involvement of specialists from different fields contribute to forming cohesive and professional military units.

Théodore McLauchlin argues that the decision to leave a military unit largely depends on the presence or absence of mutual trust among service members and a shared sense of purpose. Soldiers who feel a strong responsibility toward one another are likelier to remain on the battlefield, whereas lacking trust contributes to desertion. This highlights the importance of social connections, support, and trust in strengthening military discipline and maintaining combat morale<sup>74</sup>.

Another reason lies in the inability of pre-trial investigation bodies, particularly the State Bureau of Investigation, to effectively process many criminal proceedings. Statistical data indicate that in 2021, only 902 cases under Article 407 of the Criminal Code of Ukraine and 82 cases under Article 408 were referred to court with an indictment. On average, this accounted for less than half of all proceedings (45.9%). In the year of the full-scale invasion, 2,276

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<sup>71</sup> McLauchlin, 2015, pp. 669–679.

<sup>72</sup> Koval, 2024.

<sup>73</sup> Prokopenko, 2023.

<sup>74</sup> McLauchlin, 2020.

cases were submitted to the court with an indictment, making up only 24.22% of the total number of proceedings. By 2023, the situation had worsened, with only 15.6% of the criminal proceedings that year being brought to court with indictments (3,791 cases). In 2024, 9,553 criminal cases were referred to court with an indictment, which accounted for only 10.7% of all proceedings recorded under Articles 407–408 of the Criminal Code of Ukraine (Figure 2).

During martial law in Ukraine, 122,866 cases of desertion have been recorded, yet only about 13% of these cases have been referred to court with an indictment. Clearly, under such conditions, there can be no discussion of the effectiveness of pre-trial investigations or the implementation of the principle of the inevitability of punishment.

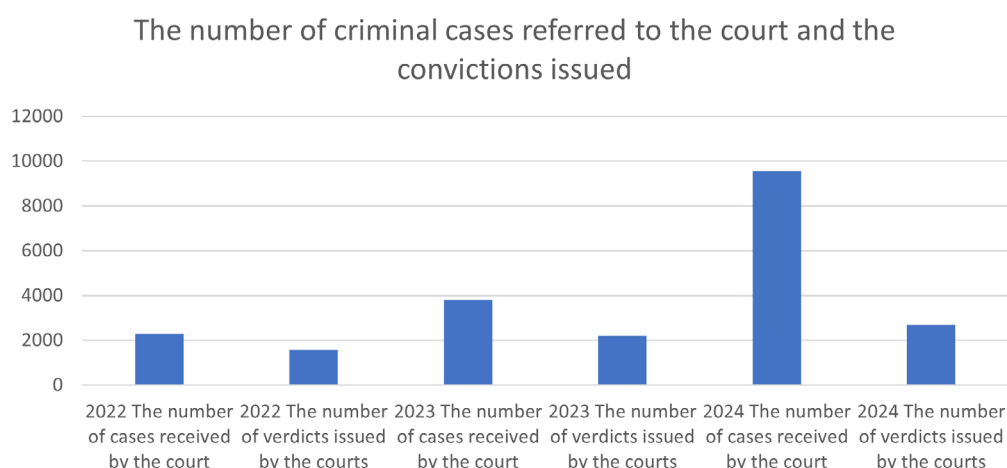


Figure 2. The number of criminal cases referred to the court and the convictions issued

As mentioned earlier, since 2023, the liability for desertion has been strengthened in the hope that it would have a deterrent effect on other service members. This law also eliminated the possibility of applying probation and non-custodial sentences to deserters. However, our statistical data analysis on enforcing sentences by the Probation Center of the Ministry of Justice of Ukraine has shown that out of 1,566 convictions issued in 2022, 973 involved penalties unrelated to imprisonment. In 2023, out of 2,190 convictions, 868 were also not associated with imprisonment; in 2024, out of 2,675 convictions, 383 did not entail isolation from society. As we can see, courts continue to impose non-custodial sentences

even in the second year of the strengthened liability for desertion. This is explained by the fact that even in 2024, courts were still considering criminal cases related to offenses committed before the law on increased criminal liability for desertion came into force.

The study would be incomplete if we did not mention the level of desertion in the military formations of the aggressor country. Unfortunately, since the beginning of the aggressor country's invasion, its authorities have become even more secretive, making it difficult to obtain reliable statistical data. Therefore, we are forced to rely solely on publications by independent journalists. According to Important Stories, as of April 2024, more than a thousand deserters were reported in the 20th Guards Motorized Rifle Division<sup>75</sup>. Additionally, Militarnyi reports that 19,210 service members of the aggressor country have been classified as deserters in the Southern Military District<sup>76</sup>. However, the published data regarding the service members of the occupying army do not fully reflect the scale of desertion. This is because the database does not include those soldiers who, for various reasons, were not declared wanted by their unit commanders, who limited their response to deploying internal search teams. It is nearly impossible to compare the levels of desertion in the military formations of the aggressor country and the Ukrainian army due to the lack of reliable data from the enemy side. However, there are numerous reports of occupiers complaining about their commanders, who threatened to execute them if they refused to follow orders<sup>77</sup>. The Internet is filled with testimonies from captured soldiers confirming the use of blocking detachments and the execution of troops who abandon their positions or refuse to assault enemy lines. Clearly, alongside substantial financial incentives for members of the aggressor state's military formations to sign contracts, intimidation also proves effective—especially considering the occupiers' extensive experience in blocking detachments<sup>78</sup>.

The crimes under investigation may seem straightforward, especially when military personnel are directly involved in combat oper-

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<sup>75</sup> New voice of Ukraine, 2024.

<sup>76</sup> Militarnyi, 2024.

<sup>77</sup> Sauer, 2023.

<sup>78</sup> Jason, 2016a.

ations. However, such offenses cannot be eradicated solely through stricter criminal liability. A comprehensive approach is required, primarily addressing the root causes that lead to their commission.

The increasing trend of desertion persisted throughout the year, and by the end of 2024, lawmakers and military commanders, recognizing the complexity of the issue, began searching for ways to resolve it. The sheer scale of desertion indicates the impossibility of conducting high-quality investigations into such cases, as pre-trial investigative bodies cannot handle such a volume. This, in turn, leads to other negative consequences—primarily, the absence of the principle of inevitability of punishment, which encourages other service members to commit similar offenses.

In June 2024, the Verkhovna Rada of Ukraine registered draft law No. 11322 of June 6, 2024, “On Amendments to the Criminal Code of Ukraine, the Criminal Procedure Code of Ukraine, and Other Legislative Acts of Ukraine Regarding the Improvement of Criminal Liability for Crimes against the Established Procedure of Military Service during Martial Law”. In the explanatory note, the legislators do not explicitly state the primary reasons for preparing this bill. Instead, they modestly indicate that the project’s objective is to establish legal guarantees and mechanisms for the return and continued military service of service members who had unlawfully abandoned their unit or duty station but subsequently returned and expressed their willingness to fulfill their military obligations properly<sup>79</sup>.

Despite its apparent shortcomings and public criticism, the bill was enacted lawfully. Under its provisions, deserters were granted the right to return to their military units by January 1, 2025. The Ukrainian legislator is not unique in adopting such measures—history has seen similar precedents. In May 1917, the Prussian War Ministry issued an order promising deserters—but not defectors—a reprieve from imprisonment, release from pre-trial detention, and the prospect of a pardon, provided they reported to a German border post by July 15, 1917<sup>80</sup>.

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<sup>79</sup> Draft law of Ukraine, 2024.

<sup>80</sup> Ziemann, 1996, p. 104.



Within 72 hours of the law's enactment, 3,000 service members who had abandoned their posts voluntarily returned to duty. Marchenko stated,

Service members who deserted their units are reassigned to reserve battalions of army corps and subsequently deployed to military units designated by the Minister of Defense—excluding the units they originally left. The list has already been determined and includes 17 military units<sup>81</sup>.

The increased penalties for these offenses did not yield the desired results. Preliminary estimates indicate that by January 1, 2025, approximately 7,000 service members took advantage of this legal provision—representing about 5.7% of all recorded desertion cases. Reports from first-instance courts on criminal case proceedings indicate that in 2024, 8,536 cases were closed due to the return of service members to their units. Anticipating further returns, the Verkhovna Rada of Ukraine extended the law's validity until March 1, 2025. However, this raises a fundamental question: How often can such extensions be made? Indefinitely? As of the time of this study's preparation, the second legally designated period for deserters to return has already passed. According to an official statement from the State Bureau of Investigation, between November 29, 2024, and March 1, 2025, nearly 21,100 service members returned to duty<sup>82</sup>.

We predict that after the war ends, the government will be forced to adopt a comprehensive amnesty law, as the number of individuals under investigation is two and a half times greater than the number of people currently held in detention facilities across Ukraine (both convicted and those in pre-trial detention). The state cannot fulfill the primary purpose of criminal punishment—rehabilitating individuals. Pre-trial investigations in such cases would drag on for decades. For example, after the end of World War II, a significant number of deserters continued to hide from justice, and only 20 years later did the communist authorities declare a full amnesty for deserters.

Closely related to desertion is another illegal phenomenon—human smuggling across the state border. Previous research indi-

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<sup>81</sup> Marchenko, 2024.

<sup>82</sup> Sites of Government Institutions, 2025.

cates that this type of unlawful activity at the border has reached alarming proportions during the period of martial law<sup>83</sup>. Comparing the scale of human smuggling before the full-scale invasion, the increase exceeds 500 %<sup>84</sup>. Ukraine is not unique in this regard. For example, during World War I, the General Staff of the Wehrmacht demanded a «more effective border closure» while simultaneously criticizing the work of the border police. Smugglers were well aware of border conditions and controls and were willing to help deserters for a substantial fee (up to several hundred marks). Since it was impossible to seal the border effectively, escapes to neutral countries reached «unbelievable proportions» by the fall of 1917. As a result, authorities sought at least an indirect solution by imposing stricter penalties on «human smugglers»<sup>85</sup>.

At the legalhistorical level, Europe's approach to emigration control has evolved since the Napoleonic era. Érica Sarmiento and Óscar Álvarez Gila, citing Llordén Miñambres (1995, pp. 11–12), observe that Spain's 1808 Decree on National Defence first imposed restrictions on the departure of militaryage men, measures later mirrored by France in its 1810 Ordinance and by the Kingdom of Sardinia in its 1814 Police Regulations. These provisions established the principle that the duty to defend the homeland during wartime – and the preparation of reservists in peacetime—can justify temporary limits on freedom of emigration. Modern international law, however, requires that any such prohibitions operate within a transparent legislative framework and be accompanied by oversight mechanisms to prevent abuse by corrupt officials or criminal intermediaries<sup>86</sup>.

Unfortunately, even in the fourth year of the war, Ukrainian authorities have failed to tighten criminal liability for the illegal smuggling of people across Ukraine's state border. This smuggling has become a highly profitable business, and even border guards do not hesitate to participate. In 2024 alone, the State Bureau of Investigation registered 119 criminal cases related to the illegal transportation of military-aged men across the border. As part of

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<sup>83</sup> Khalymon, Chlevickaite, Kuryliuk, Nikolaienko, Stepanova, 2025.

<sup>84</sup> Kuryliuk, Khalymon, 2020, pp. 195–208.

<sup>85</sup> Ziemann, 1996, p. 101.

<sup>86</sup> Llordén Miñambres, 1995, pp. 11–12.

these investigations, 121 individuals were charged, including 19 officers of the State Border Guard Service of Ukraine. Unfortunately, corruption among border guards is not a new problem; it existed even before the war began<sup>87</sup>. We believe that to reduce corruption among border officials, it is necessary to strengthen liability and implement effective anti-corruption prevention mechanisms<sup>88</sup>.

Another reason for the low effectiveness in investigating this category of criminal offenses is the dismantling of the military justice system. First, military courts were abolished in 2012, followed by the dissolution of military prosecutors' offices twice—in 2012 and 2019. Attempts to address these issues through patchwork solutions, such as creating military police, will not yield the desired results. The authors' practical military experience and expert assessments indicate that it is essential to consider the historical experience of military justice institutions in Ukraine. Analyzing the cause-and-effect relationship between decisions on their establishment, dissolution, and re-establishment will allow for the final consolidation of the military justice system at the constitutional level. Additionally, it is crucial to consider the international experience of military justice systems, which are widely recognized and have legal standing in most countries worldwide.

Strengthening disciplinary mechanisms and control systems plays a significant role in reducing desertion rates. More broadly, it seems evident that soldiers will fight harder, and units will hold together longer when fighting for a cause rather than merely to avoid punishment<sup>89</sup>. However, the consistent and transparent application of disciplinary measures fosters a sense of responsibility in fulfilling military duties. At the same time, excessively harsh punishments without adequate support can have the opposite effect, further exacerbating the situation. Therefore, it is necessary to establish a system in which every soldier understands the consequences of violations while also having the opportunity to correct mistakes and receive the required support. Without a fully functioning military justice system, achieving this will be impossible.

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<sup>87</sup> Kuryliuk, Khalymon, Filippov, Shvedova, Zolka, Vikhtiuk, 2021, pp. 1–7.

<sup>88</sup> Khalymon, Puzyrov, Prytula, 2019, pp. 436–454.

<sup>89</sup> Jason, 2017, p. 95.

One of the key factors contributing to desertion is the information war, in which Ukraine faces significant challenges. Social media is flooded with negative information about the internal situation in the Armed Forces and the frontline conditions, much of which is distorted or deliberately manipulated by the enemy. Disinformation, as a tool of psychological influence, is actively used to demoralize service members, undermine trust in command, and spread panic among mobilized personnel. At the same time, there is a noticeable lack of high-quality information about commanders who have distinguished themselves positively and about successful military operations that could serve as examples for others. The media component of military units plays a crucial role, as properly highlighting heroic stories and effective decisions can counter enemy information operations and help strengthen morale<sup>90</sup>.

Why do Ukrainian service members desert? There are many reasons, and listing and analyzing them within a single publication is extremely difficult. Some cannot even be openly discussed. The main reasons include:

Exhaustion of infantry troops and the lack of proper rotations.

- The absence of clear service terms.
- Fear of being killed (or rather, the instinct of self-preservation).
- Inadequate actions by commanders, unrealistic tasks, and orders.
- The inability to transfer to other units (this issue has been partially addressed with the introduction of the Army+ application).
- Is it possible to change anything? Absolutely, yes.

However, reducing the number of desertion cases requires comprehensive solutions. Half-measures will not solve anything in this case.

Psychological support for military personnel is a key step in preventing desertion. Regular training, consultations with psychologists, and support from commanders help boost morale and reduce the risk of desertion. Soldiers must feel supported not only by their peers but also by their leadership, and they should have

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<sup>90</sup> Tyshchuk, 2024, pp. 203–224.

the opportunity to address personal issues that arise during service. This creates a balance between the demands of duty and the need to maintain their mental health.

One cannot overlook the reason for desertion related to the age of conscripts, as it is directly linked to fatigue, but it is important to highlight it separately. Before the conscription age was lowered from 27 to 25 years, the average age of conscripts was 43 years. A simplified formula is used here:  $27 + 59$  (maximum conscription age) = 43. In May 2024, the conscription age was reduced to 25 years, but as we understand, the average age of Ukrainian soldiers has not decreased significantly. Over the past six months, international partners have urged the Ukrainian government to lower the conscription age, but the government has refrained from taking such steps. Worldwide, it is considered that the best soldier is a young soldier. Even the Wehrmacht command during World War I preferred young soldiers under 25, who demonstrated extraordinary dedication and much better morale than older soldiers<sup>91</sup>.

What needs to be done?

Restore the entire functioning of the military justice system (military police, prosecution, specialized courts). The war will last for a long time, and even after its conclusion, we will face at least a ten-year transitional period during which the armed forces will not be reduced to their 2013 levels. While the number of military criminal offenses will decrease, it will not return to the levels of 2022.

Make it clear to service members that punishment for such offenses will be inevitable. Attempts to appease overt deserters lead to a situation where even those who do not intend to leave their posts may resort to such behavior.

Promote fair and respectful treatment of those who sacrifice their lives and health for victory over the aggressor. True fairness lies in the fact that all eligible men—regardless of their social status or background—must serve in the current conditions.

Introduce a system for mobilizing civil servants from every department, including members of parliament, their assistants, and law enforcement personnel, with proportional involvement in ensuring the country's defense capability. This should include the subsequent rotation of mobilized personnel, the reorganization

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<sup>91</sup> Ziemann, 1996, p. 115.

of territorial recruitment centers, and the development of territorial defense as an effective military structure to enhance defense capabilities and restore citizens' trust in the government<sup>92</sup>.

Restore social justice. Those who purchase fake disability status or exemption certificates or who flee to Europe using forged documents should be held accountable.

Additionally, it is essential to foster a humane attitude toward service members within military units, primarily from commanders. It is necessary to understand that respect does not arise out of nowhere and cannot be assumed a priori for someone of higher rank—it must objectively be earned.

## 5. CONCLUSIONS

The research confirms that desertion is a serious threat affecting not only the tactical level of military operations but also the stability of national security and the army's ability to function. Addressing this issue requires measures at the state level and within military units, with precise planning and operational actions to minimize the consequences.

History provides valuable lessons for contemporary practitioners of counter-desertion efforts, as armed forces from different countries have already dealt with this issue. In previous conflicts, desertion often arose due to low morale, poor service conditions, and ineffective management. These periods make it clear that one of the main ways to overcome desertion is to focus on the psychological climate within the army. It is necessary to organize quality training and education for personnel, which will help increase each soldier's confidence. Conditions must be created to help maintain motivation, especially during prolonged wars, where the moral state directly affects the ability to remain in service.

Developing an approach combining punishment and support is crucial in combating desertion. Soldiers must be able to seek assistance from commanders or psychologists when facing issues and understand that their desire to change the situation will be supported. At the same time, serious disciplinary violations must

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<sup>92</sup> Papelbu, 2025.

be met with real punishment, not virtual consequences, as we currently observe in Ukraine.

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