



ANALYTICAL REPORT

HOW UKRAINE SEARCHES FOR MISSING PERSONS AS A RESULT OF RUSSIAN AGGRESSION AND SUPPORTS THEIR FAMILIES

How Ukraine searches for missing persons as a result of Russian aggression and supports their families. Analytical report. — Syniuk O.; editors — Lunova O., Bieliachkova O. — Kyiv, 2024.

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Analytical report “How Ukraine searches for missing persons as a result of Russian aggression and supports their families” was prepared based on the results of the analysis of Ukrainian legislation on persons missing under special circumstances and a series of interviews with relatives of the missing (civilians and military personnel), representatives of organisations that unite relatives of the missing, representatives of state bodies and institutions that deal with the issues of persons missing under special circumstances within their competence. The analytical report describes the practice of implementing the relevant legislation and offers recommendations for improving its provisions and their implementation.

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INTRODUCTION

Law of Ukraine “On the Legal Status of Missing Persons under Special Circumstances”:¹ (hereinafter - the Law) was adopted in 2018 in response to the challenge of the disappearance of persons as a result of hostilities and occupation of part of the territory of Ukraine, which began in 2014 due to the armed aggression of the Russian Federation. The exact number of people who went missing during the war was not known, but as of 2020, the International Committee of the Red Cross (ICRC) had received 1,835 applications for the search for relatives due to the armed conflict in Ukraine.²

The situation changed after February 24, 2022, when the number of cases began to rise to tens of thousands, including both military personnel and civilians. Currently, 47,194 people are registered in the Register of Missing Persons under Special Circumstances.³

The Law is the main normative legal act that outlines the state policy on missing persons under special circumstances: defining a separate legal status, rights, and guarantees provided for missing persons and their families; the system of state authorities and institutions responsible for implementing the state policy on this issue, etc. Other legislative and subordinate acts only supplement and specify the provisions of this Law.

The status of missing persons under special circumstances covers both civilians and military personnel. For civilians, this Law, except for the relevant legislation on the granting of a survivor's pension, is the only legislative act that defines the rights and guarantees of missing persons in the war and their families. In the case of missing military personnel, the regulation is more extensive - in addition to this Law, their rights and guarantees are also defined by the Law of Ukraine “On Social and Legal Protection of Military Personnel and Members of Their Families”.⁴

The system of state authorities and institutions dealing with the issues of missing persons under special circumstances is complex and dynamic - changes to the distribution of powers between these bodies are made regularly (the last ones were made in September 2023). The main changes concerned the transfer of the institution of the Commissioner for Missing Persons under Special Circumstances from the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine to the Ministry of Internal Affairs of Ukraine, and the redistribution (or rather restriction) of some of its powers.

Six years after the adoption of the Law and almost a year after the redistribution of functions between the authorities on the issues of missing persons under special circumstances, questions arise as to whether the state's actions are sufficient to ensure the real content of the legal status of a missing person under special circumstances, whether state guarantees for the families of missing persons meet their needs, how effectively the bodies defined by the Law exercise their powers and what areas remain to be improved.

Accordingly, the main objective of this study is to outline the entire system of rights and benefits provided for missing persons under special circumstances (both military and civilian), as well as their family members, and to assess the effectiveness of ensuring the rights of missing persons and provide recommendations for improving the implementation of these rights.

Number of persons missing under special circumstances

1 835 people

As of 2020

47 194 people

After February 24, 2022

1. The Law of Ukraine “On the Legal Status of Missing Persons under Special Circumstances” of 12.07.2018 No. 2505-VIII: <https://zakon.rada.gov.ua/laws/show/2505-19#Text>

2. International Day of the Disappeared - August 30, 2020 / Ukrainian Red Cross Society: <https://redcross.org.ua/news/2020/08/14211>

3. Response of the Office for Missing Persons under Special Circumstances (Secretariat of the Commissioner for Missing Persons under Special Circumstances) of the Ministry of Internal Affairs of Ukraine to the appeal No. 06_125 of 19.06.2024

4. The Law of Ukraine “On Social and Legal Protection of Military Personnel and Members of Their Families” of 20.12.1991 No. 2011-XII: <https://zakon.rada.gov.ua/laws/show/2011-12#Text>

METHODOLOGY

For a comprehensive analysis of the state of implementation of the legislation defining the issues related to missing persons under special circumstances, the author analysed the provisions of the current version of the Laws of Ukraine "On the Legal Status of Missing Persons under Special Circumstances", "On Social and Legal Protection of Military Personnel and Members of Their Families", "On mandatory state pension insurance", as well as the Resolutions of the Cabinet of Ministers "Issues of determining the powers of certain bodies in the field of compliance with international humanitarian law throughout Ukraine", Some issues of implementation of the Law of Ukraine "On the Legal Status of Missing Persons under Special Circumstances", in particular, the Regulation on the Commissioner for missing persons under special circumstances and the Procedure for the formation and operation of search groups to search for missing persons under special circumstances. In addition, the article analysed the Resolution of the Cabinet of Ministers "On Approval of the Procedure for Payment of Financial Support to Families of Military Personnel Captured or Held Hostage, as well as Interned in Neutral States or Missing" and the Order of the Ministry of Internal Affairs "On Approval of the Regulation on the Unified Register of Missing Persons under Special Circumstances".

For a more detailed analysis of the practice of applying the relevant legislation, the NGO Kharkiv Institute for Social Research conducted a total of nineteen interviews in May-June 2024:

- **TEN INTERVIEWS** were conducted with relatives of persons who went missing under special circumstances (five of them with families of civilians and five with families of military personnel);
- **FIVE INTERVIEWS** were conducted with representatives of organisations working on the issues of missing persons under special circumstances and providing support to relatives of such persons, including organisations that are associations of relatives of missing persons under special circumstances;
- **FOUR INTERVIEWS** with representatives of state bodies and institutions dealing with the issues of missing persons under special circumstances within their competence: The Commissioner for Missing Persons under Special Circumstances, the Ministry of Internal Affairs of Ukraine, the Ministry of Defence of Ukraine, the Office of the Ukrainian Parliament Commissioner for Human Rights, and the Coordination Headquarters for the Treatment of Prisoners of War. ZMINA also officially requested the Pension Fund of Ukraine to delegate a representative of the Fund to participate in an in-depth interview but was denied due to the "heavy workload of the Pension Fund of Ukraine employees". Instead, written explanations were provided "within the limits of authority...on the mentioned topic".

Interviews were conducted with the families of persons who still have the status of missing under special circumstances, as well as with the families of those who had this status but whose captivity has been established. In addition, representatives of organisations that are associations of relatives of persons who went missing under special circumstances shared their own experiences of searching for their relatives during the interviews.

The interviews included questions about the experience of applying to state bodies and institutions that are responsible for dealing with cases of missing persons under special circumstances, communication with such bodies, relatives' awareness of the rights and benefits provided by law, difficulties in the procedure for acquiring the status of a missing person under special circumstances and receiving benefits provided by law, as well as other problems faced by relatives of missing persons under special circumstances and ways to solve them.

CHAPTER 1

STATUS OF MISSING PERSONS UNDER SPECIAL CIRCUMSTANCES AND THE CONSEQUENCES OF ACQUIRING SUCH STATUS FOR MISSING PERSONS AND MEMBERS OF THEIR FAMILIES



1.1 Acquiring the status of a missing person under special circumstances

The definition of missing persons under special circumstances is contained in the Law of Ukraine “On the Legal Status of Missing Persons under Special Circumstances”. In particular, **a person who went missing under special circumstances** is a person who went missing due to an armed conflict, hostilities, temporary occupation of a part of the territory of Ukraine, natural or man-made emergencies (Article 1 of the Law).

In addition to the status of a missing person under special circumstances, Ukrainian legislation also provides for other legal statuses – “missing person” and “missing service member”. All three statuses are not identical and have different consequences, so it is important to outline their differences.

In particular, **a missing person** is a person in respect of whom there is no information about their place of residence for one year.⁵ This status is acquired solely by a court decision declaring a person missing. **A missing service member** is a service member who went missing in the course of defence of the Motherland and in respect of whom there is no information about their whereabouts for more than 15 days, except for information about their unauthorised leaving of a military unit or place of service. It is important to note that a person may simultaneously have the status of a missing person under special circumstances and a missing service member. Granting a person the status of a missing person under special circumstances or a missing service member does not deprive them of the right to apply to the court for recognition of a person as missing. However, in case a person is declared missing in court, some of the guarantees and payments under other statuses are terminated, including the preservation of the place of service and position, payment of military personnel's allowances, etc.

A person acquires the official status of **a person who went missing under special circumstances** from the moment information about them is registered in the Unified Register of Missing Persons under Special Circumstances. This status is retained from the moment the applicant submits a statement on the fact of the person's disappearance until the search for the person is terminated.

An application for searching for a person who went missing under special circumstances is filed by a relative of such a person, a representative of a military formation, a state authority, a local self-government body, a public association, or any other person who became aware of the disappearance, as well as by the Commissioner for Missing Persons under Special Circumstances, in case of reporting the disappearance to him. The application is submitted to the relevant territorial body of the National Police of Ukraine.

Based on this statement, information is registered in the Unified Register of Missing Persons under Special Circumstances within 24 hours.

The Unified Register of Missing Persons under Special Circumstances (hereinafter – the Register), is an electronic database intended for storing, protecting, processing, using,

and disseminating information about persons who went missing under special circumstances, their unidentified remains, the presence or absence of a court decision to declare them missing, presumed dead or declared missing, as well as other data used to ensure the registration of missing persons to trace them.

In particular, the Register contains the following information about a missing person under special circumstances:

- Surname, first name, patronymic (if any) (in Ukrainian and Latin letters in accordance with the rules of transliteration), photo;
- Information about the date and place of birth;
- Information about marital status;
- Information on the declared (registered) place of residence (stay) of the person;
- Information about the actual place of residence;
- Information about the employer who the person worked (served) for – if such a person is authorised to perform state functions;
- Details of identity documents confirming the person's citizenship of Ukraine or special status (name, number, series (if any) of the document, date of issue, authorised entity that issued it);
- A unique entry number in the Unified State Demographic Register (if any);
- A date, place (including with reference to the settlement, coordinates of disappearance), circumstances and time of disappearance;
- Facial characteristics;
- Information on the existence of criminal proceedings initiated on the fact of the disappearance of such a person, or in which the victim is a missing person under special circumstances;
- A name of the body conducting the pre-trial investigation in criminal proceedings on the fact of a missing person or in other criminal proceedings in which the victim is a missing person under special circumstances;
- A name of the territorial body (unit) of the National Police of Ukraine that is searching for the missing person (which has an operational search or investigative case in progress), name of another body that carries out operational search activities;
- Information on the existence of a court decision to declare a person missing or dead (the name of the court that issued the relevant decision, the date of the court decision, the case number, the number of proceedings, and information on whether the said court decision has entered into force);
- A date and place of establishing the location of the missing person;
- Other information that may facilitate the search for a missing person under special circumstances.

The Register is subordinate to the Ministry of Internal Affairs of Ukraine.

5. Civil Code of Ukraine, Article 43, part 1, of 16.01.2003, No. 435-IV: <https://zakon.rada.gov.ua/laws/show/435-15#Text>

6. Resolution of the Cabinet of Ministers of Ukraine “Procedure for Payment of Financial Support to Families of Military Personnel Captured or Held Hostage, as well as Interned in Neutral States or Missing” of 30 November 2016, No. 884, para. 2: <https://zakon.rada.gov.ua/laws/show/884-2016-%D0%BF#Text>

1.2 Rights and additional guarantees for persons - military personnel and civilians - missing under special circumstances, and their relatives

The rights of a missing person under special circumstances are defined in the Law of Ukraine “On the Legal Status of Missing Persons under Special Circumstances”, which is the main legislative act defining the rights and guarantees for civilians missing under special circumstances, while for military personnel with this status, there is additional regulation.

For a missing person under special circumstances, the Law provides:

- 1) The right to a comprehensive investigation of the circumstances of their disappearance and establishment of their whereabouts;
- 2) The right to protection of their rights, interests and property until the investigation is terminated or they are declared dead. In order to protect the property of such a person, guardianship may be established over it;
- 3) The right to retain their place of work and position, but not more than until the person is declared missing or dead. If such a person is authorised to perform the functions of the state, they retain their place of work, position, and average earnings at the enterprise, institution, or organisation, regardless of their subordination;
- 4) The right of military personnel to retain payments in the amount of the official salary at the last place of service, salary by military rank, long service allowance,

other monthly additional types of permanent financial support and other types of financial support, considering changes in years of service and norms of financial support.⁷

Certain guarantees are also provided for **close relatives and family members of persons who went missing under special circumstances**. The legislation defines close relatives and family members as husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, sibling, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, great-grandson, great-granddaughter, adoptive parent or adopted child, guardian or trustee, a person under guardianship or trusteeship, as well as persons who live together, are connected by common life and have mutual rights and obligations, including persons who live together but are not married.

For such persons, the following is provided:

- 1) The right to receive reliable information about the whereabouts of a person who went missing under special circumstances, reliable information about the progress and results of the search, the circumstances of their death, and the place of burial (if known);
- 2) The right to social protection, which currently includes a survivor's pension.

1.3 Right to a survivor's pension

One of the key guarantees of support for the family of a missing person under special circumstances is the granting of a survivor's pension for the period of absence of that person. According to the Pension Fund of Ukraine, as of June 1, 2024, 3,181 people who are family members of persons with the status of missing under special circumstances were granted survivor's pensions. The average amount of their pensions is UAH 3364,05.⁸

Family members with disabilities of a person who has been granted the legal status of a missing person under special circumstances are entitled to a survivor's pension, regardless of the length of the person's insurance record.⁹ At the same time, children are entitled to a survivor's pension regardless of whether they were dependent on a primary income earner. Parents and spouses of a person who

went missing under special circumstances and who were not dependent on the person are entitled to a survivor's pension if they have lost their source of livelihood.

3 181 people

Who are family members of persons with the status of missing under special circumstances were granted survivor's pensions

UAH 3 364,05

The average amount of their pensions

7. The Law of Ukraine “On Social and Legal Protection of Military Personnel and Members of Their Families” of 20.12.1991 No. 2011-XII: <https://zakon.rada.gov.ua/laws/show/2011-12#Text>

8. Response of the Department of Pensions, Insurance Payments, Social Services, Housing Subsidies and Benefits of the Pension Fund of Ukraine to the letter of 19.06.2024 No. 06_124 (inc. No. 1069/11 of 19.06.2024)

9. The Law of Ukraine “On Compulsory State Pension Insurance” of 09.07.2003 No. 1058-IV: <https://zakon.rada.gov.ua/laws/show/1058-15#Text>

In this case, **family members with disabilities** are considered:

- A husband (wife), father, or mother, if they are persons with disabilities or have reached the age of 65 or retirement age (60, 63);
- Children under the age of 18 or older, if they became people with disabilities before reaching the age of 18;
- Children who study full-time until they graduate, but not longer than until they reach the age of 23;
- Orphans - until they reach the age of 23, regardless of whether they are studying or not;
- A husband (wife), and in their absence - one of the parents or a brother or sister, grandfather or grandmother, regardless of age and ability to work, if he (she) is not working and is engaged in caring for the child (children) of the deceased primary income earner until they reach the age of 8;
- Stepchildren if they did not receive child support from their parents;
- Adopted children.

All family members who are entitled to a survivor's pension are entitled to one joint pension.¹⁰ The amount of the pension is 50 per cent of the survivor's pension for one family member with a disability and 100 per cent of the survivor's pension for two or more family members with a disability, distributed equally among them.

Survivor's pensions are granted to family members with disabilities regardless of the length of their insurance record. In addition, documents on the length of service are required for the pension to be granted. If a missing person under special circumstances has no insurance record, their family members are entitled to a pension in the minimum amounts stipulated by law. In the case of the insurance period, the amount of pension will be calculated depending on the acquired insurance period of the primary income earner and earnings.¹¹

According to the Pension Fund of Ukraine, family members of a person who went missing under special circumstances are entitled to a survivor's pension one month after the date of registration of the missing person in the Unified Register of Pre-trial Investigations or the Unified Register of Missing Persons under Special Circumstances. When determining the right to a pension, the data on the status of the primary income earner as a missing person under special circumstances is determined at the time of the right to a pension, i.e. one month after the date of entering information about the missing person into the Unified Register of Pre-trial Investigations or the Register.¹²

To apply for a survivor's pension, you must contact the relevant territorial body of the Pension Fund of Ukraine (hereinafter - PFU) or through the web portal of the Pension

Fund of Ukraine's electronic services¹³ and submit the following documents¹⁴:

- Documents on the length of service of a missing person under special circumstances;
- Information (extract) from the Unified Register of Missing Persons under Special Circumstances;
- A document certifying registration in the State Register of Individuals - taxpayers of the person to whom the pension is granted (provided if the passport of a citizen of Ukraine or birth certificate does not contain information on the registration number of the taxpayer's account card) and of the person who went missing under special circumstances (provided if the person who applied for the survivor's pension has such documents);
- A birth certificate or identity document (passport) of the person who the pension is granted to;
- Documents certifying the family member's relationship with the primary income earner;
- In case of children who are studying — certificates from general secondary education institutions, vocational schools, higher education institutions, and educational institutions abroad stating that they are studying full-time;
- Documents confirming that a husband (wife) or, in their absence, one of the parents, grandparents, brothers or sisters, regardless of age and ability to work, is not working and is engaged in caring for the child (children) of the missing person under special circumstances until the child (children) reaches the age of 8;
- Information about the place of residence;
- A document confirming that family members (other than children) are dependent on the person who went missing under special circumstances;
- If necessary, an expert opinion on establishing a causal link between the death of the primary income earner and exposure to ionising radiation and other harmful factors as a result of the Chernobyl Nuclear Power Plant disaster;
- Documents on the length of service of a person who went missing under special circumstances (in particular, documents confirming the length of service to grant pensions in the absence of an employment record book or relevant records in it¹⁵).

An application for a pension may be made at any time after the right to a pension has been established.¹⁶

The pension is paid for the entire period during which the person is considered missing and is terminated from the first day of the month following the month when a note is made in the Unified Register of Pre-trial Investigations or the Register on establishing the location, burial place or location of the remains of a missing person under special circumstances.

10. Article 39 of the Law of Ukraine "On Compulsory State Pension Insurance" of 09.07.2003 No. 1058-IV: <https://zakon.rada.gov.ua/laws/show/1058-15#n577>

11. Response of the Pension Fund of Ukraine to the appeal of 05.06.2024 No. 06-0112 (inc. of 05.06.2024 No. 3883/8)

12. *ibid*

13. Portal of electronic services of the Pension Fund of Ukraine: <https://portal.pfu.gov.ua>

14. Resolution of the Board of the Pension Fund of Ukraine "On Approval of the Procedure for Submission and Processing of Documents for Granting (Recalculation) of Pensions in Accordance with the Law of Ukraine "On Compulsory State Pension Insurance" of 25.11.2005 No. 22-1: <https://zakon.rada.gov.ua/laws/show/z1566-05#Text>

15. Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Confirmation of Existing Work Experience for Granting Pensions in the Absence of an Employment Record Book or Relevant Records in it" of 12.08.1993 No. 637: <https://zakon.rada.gov.ua/laws/show/637-93-%D0%BF#Text>

16. Response of the Pension Fund of Ukraine to the appeal of 05.06.2024 No. 06-0112 (inc. of 05.06.2024 No. 3883/8)

1.4 Rights and additional guarantees for military personnel who went missing under special circumstances and their families

It is worth noting that in the case of missing service personnel, their family members, in accordance with the Law of Ukraine “On Social and Legal Protection of Military Personnel and Members of Their Families”, are entitled to several guarantees and benefits provided for by the status of “missing service member” without the need to obtain the status of a missing person under special circumstances.

These rights include:

- 1) Receiving financial support for a service member upon application addressed to the commander (chief, head) of a military unit (institution, organisation)¹⁷;
- 2) Provision of vouchers to sanatoriums and health resorts at a discounted rate no more than once a year for parents, spouses, minor children, and children with disabilities since childhood (regardless of their age);
- 3) Granting a 50 per cent discount on housing (rent) and utility bills (water, gas, electricity, heating and other services);
- 4) Travel privileges (free travel by all types of public urban passenger transport, except taxis, within the administrative district of residence, railway and water transport of suburban connections and suburban buses if they have a document). Also, parents of a service member who went missing under special circumstances are entitled to a 50 per cent discount on intercity rail, air, water and road transport;
- 5) Obtaining land and construction assistance from local governments for parents and family members of a service member;
- 6) Providing families of military personnel with improved living conditions in residential premises on an out-of-priority basis, if necessary;
- 7) For children of military personnel - priority admission to children's institutions at the place of residence and admission without competition to state and municipal higher and vocational educational institutions of Ukraine for training at the expense of the state and local budgets.

All military personnel, including those who went missing, are entitled to a deferral of their credit obligations. In particular, financial institutions are prohibited from collecting debts from military personnel and bothering their relatives to collect these debts during martial law and for six months after its end. The exemption applies to interest on loans, as well as fines, penalties, and insurance payments, except for loan agreements for the purchase of property that is or will be classified as housing (residential buildings, apartments, future real estate, housing under construction, property rights to them) and/or cars.

In addition, according to the amendments to the Law of Ukraine “On Mobilisation Training and Mobilisation” in May 2024, women and men whose close relatives (husband, wife, son, daughter, father, mother or mother or full brother or sister) went missing in action during the anti-terrorist operation and the implementation of measures to ensure national security and defence, repulse and deter the armed aggression of the Russian Federation in Donetsk and Luhansk regions, as well as in action to ensure national security and defence, repulse and deter the armed aggression against Ukraine during martial law.¹⁸ In both cases, the document confirming the right to deferral is the “Court decision on declaring a person missing under special circumstances”.¹⁹ As noted above, the procedure for acquiring the status of a missing person under special circumstances does not involve going to court, but instead, information about the person is registered in the Unified Register of Missing Persons under Special Circumstances. Accordingly, an extract from the Register should be used to confirm this status. However, until the necessary amendments are made to the Cabinet of Ministers resolution, which contains the incorrect list, there may be problems with the deferral, and, unfortunately, such cases have already occurred.²⁰ It is worth noting that there is no similar deferral for the families of civilians who went missing under special circumstances.

17. Resolution of the Cabinet of Ministers of Ukraine “On the Procedure for Payment of Financial Support to Families of Military Personnel Captured or Held Hostage, as well as Interned in Neutral States or Missing” of November 30, 2016, No. 884, para. 2: <https://zakon.rada.gov.ua/laws/show/884-2016-%D0%BF#Text>

18. Law of Ukraine “On Mobilisation Training and Mobilisation” of 21.10.1993 No. 3543-XII: <https://zakon.rada.gov.ua/laws/show/3543-12#Text>

19. Resolution of the Cabinet of Ministers of Ukraine “On the Procedure for the Conscription of Citizens for Military Service during Mobilisation and for a Special Period” of 16.05.2024 No. 560: <https://www.kmu.gov.ua/npas/pro-zatverdzhennia-poriadku-provedennia-pryzovu-hromadian-na-viiskovu-sluzhbu-pid-chas-mobilizatsii-na-osoblyvyi-period-560-160524>

20. Postponement of mobilisation for relatives of missing persons: what is wrong with the Cabinet of Ministers' resolution / Media Initiative for Human Rights, 06.06.2024: <https://mipl.org.ua/vidstrochka-vid-mobilizaciyi-dlya-ridnyh-znyklyh-bezvisty-shho-ne-tak-z-postanovoyu-kabminu>

1.5 System of state bodies and institutions dealing with the issues of missing persons under special circumstances and support for their families

The system of state bodies and institutions on the issues of missing persons under special circumstances includes state bodies and structures responsible for accounting and searching for missing persons under special circumstances, namely Ministry of Defence of Ukraine, Ministry of Healthcare of Ukraine, Ministry of Internal Affairs (State Migration Service, State Emergency Service of Ukraine); Ministry of Justice (State Penitentiary Service of Ukraine); Ministry of Communities and Territories Development of Ukraine (State Border Guard Service of Ukraine, National Guard of Ukraine, National Police of Ukraine, Security Service of Ukraine, prosecutor's offices, local executive authorities). This includes the state bodies responsible for providing social guarantees for such persons and their families, in particular, the Pension Fund of Ukraine for the provision of survivor's pensions and the Ministry of Social Policy for the provision of utility subsidies, as well as their territorial bodies.

Some of the above-mentioned bodies have a narrow involvement in the implementation of the state policy on missing persons under special circumstances. For example, the role of the State Emergency Service of Ukraine is to approve the formation of search groups, and the role of the Ministry of Health is to record information that may contribute to the identification of a person (DNA samples and profiles, etc.). The main body responsible for searching for persons who went missing under special circumstances is the National Police of Ukraine - it is the territorial body of the National Police that relatives apply to with a statement about the disappearance of their relatives. In some cases, the Security Service of Ukraine may handle cases of missing persons under special circumstances.

The issue of missing persons under special circumstances also falls under the mandate of the National Information Bureau (hereinafter - NIB), which coordinates its activities with various ministries, bodies and services, including the National Police. When information about a missing person is received by the NIB, the information is entered into the Register. The NIB transmits the information to law enforcement agencies, international monitoring missions and organisations, and the Coordination Headquarters for the Treatment of Prisoners of War to negotiate their release (if there is information that the missing person is in captivity or held hostage).²¹

The central element of the system of state bodies dealing with cases of missing persons under special circumstances is the position of the Commissioner for Missing Persons under Special Circumstances and his Secretariat within the Ministry of Internal Affairs. Given this, as well as the fact that the position of the Commissioner and his functions have undergone significant changes, the powers of this institution should be considered more thoroughly.

The Commissioner for Missing Persons under Special Circumstances is responsible for coordinating the search for missing persons under special circumstances and communicating with the families of such persons. In particular, the functions of the Commissioner, as defined by the Law “On the Legal Status of Missing Persons under Special Circumstances”, include:

- 1) Interaction with state and local authorities, public associations, and international organisations, as well as with enterprises, institutions and organisations on the search for missing persons under special circumstances;
- 2) Obtaining information (including personal data) from public authorities, in particular through information exchange between the Unified Register of Missing Persons under Special Circumstances, and processing information that may facilitate the search for missing persons under special circumstances;
- 3) Preparing and submitting analytical materials and proposals for measures to improve the system of tracing missing persons under special circumstances;
- 4) Preparing recommendations to public authorities on the implementation of Ukraine's international obligations regarding missing persons under special circumstances and participating in the development of draft regulations on the search for missing persons under special circumstances and their legal status;
- 5) Organising the exchange of information that may facilitate the search for missing persons under special circumstances between the Commissioner and state bodies authorised to register and/or search for them;
- 6) Establishing and coordinating the work of search groups (humanitarian missions), negotiating with humanitarian missions, public associations and individuals operating and/or staying in the temporarily occupied territories to search for missing persons under special circumstances, in accordance with the procedure established by law;
- 7) Assistance in returning the remains and personal belongings of a person who went missing under special circumstances to their relatives;
- 8) Communicating with relatives of persons who went missing under special circumstances and providing them with information on the status of the search and its results within the limits established by law;
- 9) Taking measures to ensure that close relatives and/or family members of persons who went missing under special circumstances are provided with the necessary information regarding the identification report or the results of the investigation of the person's disappearance.

21. Instruction from the National Information Bureau “I can't contact my loved one for more than three days”: <https://nib.gov.ua/load/158/docs/yaksho-ne-maete-zvyazku-z-blizkoyu-lyudinoyu-bilsh-8f708a9.pdf>

However, the status and powers of the Commissioner were changed by the government in September 2023 as a result of the adoption of the Resolution of the Cabinet of Ministers of Ukraine "On the issues of determining the powers of certain bodies in the field of compliance with international humanitarian law throughout Ukraine".²² In particular, according to the amendments, the activities of the Commissioner and his Secretariat are ensured by the Ministry of Internal Affairs, and not by the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine, as it was before. The Commissioner is also appointed and dismissed by a decision of the Cabinet of Ministers upon the proposal of the Ministry of Internal Affairs.

In addition, the rights and activities of the Commissioner have been changed - now they are limited to facilitating the formation of search teams, and decision-making is vested in the General Staff of the Armed Forces of Ukraine with the approval of the Coordination Headquarters, which also took over the function of negotiating with humanitarian missions.

Information about the redistribution of the Commissioner's powers appeared in August 2023. At that time, the Ministry of Reintegration of the Temporarily Occupied Territories explained that the position of the Commissioner would not be abolished, but an interagency meeting in the Government considered the transfer of the function of missing persons from the Ministry of Reintegration to the Ministry of Internal Affairs, the Ministry of Defence and the Coordination Headquarters for the Treatment of Prisoners of War.²³

The system includes the Coordination Headquarters for the Treatment of Prisoners of War (hereinafter - the Coordination Headquarters), whose role should also be considered in more detail, given that some of the functions of the Commissioner have been transferred to this structure.

The Coordination Headquarters²⁴ is a temporary auxiliary body of the Cabinet of Ministers of Ukraine. It was established to facilitate the coordination of the activities of central and local executive authorities, other state bodies, local governments, military formations, law enforcement agencies and public associations, primarily on the treatment of Ukrainian defenders held captive by the aggressor state and enemy prisoners of war. However, as a result of the above-mentioned changes, the issues dealt with by the Coordination Headquarters have also included civilians deprived of their personal liberty as a result of armed aggression, missing persons due to the armed conflict, hostilities, and the temporary occupation of part of the territory of Ukraine. In particular, the Coordination Headquarters performs the function of negotiating with humanitarian missions, public associations and individuals operating and/or staying in the temporarily occupied territories to search for missing persons under special circumstances, which was previously performed by the Commissioner.

The Coordination Headquarters includes representatives of the Office of the President of Ukraine, the Defence Intelligence of Ukraine, the Ministry of Reintegration, the

Ministry of Justice, the Ministry of Economy, the Ministry of Defence, the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Health, the National Police, the Administration of the State Border Guard Service, the National Guard, the Armed Forces, and the Security Service of Ukraine, the National Security and Defence Council of Ukraine, the Office of the Prosecutor General, the Office of the Ukrainian Parliament Commissioner for Human Rights, the Office of the Commissioner for Missing Persons under Special Circumstances, and the Ministry for Veterans Affairs. Some representatives are included upon specific agreement.

The Head of the Coordination Headquarters is the Chief of the Defence Intelligence of Ukraine.

Some of the functions of the Commissioner were also transferred to the Central Department of Civil-Military Cooperation of the General Staff of the Armed Forces. In particular, it is responsible for creating and coordinating the work of search teams.²⁵

This redistribution of powers raised concerns even before it was approved - the reasons for this decision were never explained, and there were no consultations with organisations of relatives of missing persons. Ukraine 5AM Coalition warned at the time that what was presented as "interagency redistribution of functions to improve work efficiency" would in practice lead to the absence of a single authorised coordinating body. The distribution of the functions of the Commissioner for Missing Persons under Special Circumstances between law enforcement and military bodies, which by definition (and especially in wartime) are not and cannot be open, will create a risk of deterioration of the situation with the protection of missing persons and their families. In addition, there are significant questions about the compliance of the proposed redistribution of powers with the provisions of the Law of Ukraine "On the Legal Status of Missing Persons under Special Circumstances".

Ukraine 5AM Coalition called on the authorities to take a balanced approach to the redistribution of the functions of the Commissioner for Missing Persons under Special Circumstances: such redistribution should be justified, accompanied by appropriate amendments to the relevant law, and provide for the identification of an entity responsible for maintaining constant contact with the relatives of missing persons in the context of armed aggression against Ukraine.²⁶

In addition to procedural aspects, changes in powers due to the adoption of the Resolution without proper amendments to the relevant law, the question of the expediency of referring cases of civilians, both deprived of personal liberty and missing, to the jurisdiction of structures dealing with the military remains open. Providing such uncharacteristic functions to structures whose main task is to deal with military cases carries the risk that civilians will not receive sufficient attention. In addition, the specifics of the work of these structures may mean limited access to information about and search for missing persons.²⁷

22. Resolution of the Cabinet of Ministers of Ukraine "Issues of determining the powers of certain bodies in the field of compliance with international humanitarian law throughout Ukraine" of September 12, 2023, No. 975: <https://zakon.rada.gov.ua/laws/show/975-2023-%D0%BF#Text>

23. Explanation of the Ministry of Reintegration on the Commissioner for Missing Persons, 11.08.2023: <https://minre.gov.ua/2023/08/11/roz%CA%BCyasennya-minreintegracziyi-shhodo-upovnovazhenogo-zi-znyklyh-bezvisty>

24. Resolution of the Cabinet of Ministers of Ukraine "On the Establishment of the Coordination Headquarters for the Treatment of Prisoners of War" of March 11, 2022, No. 257: <https://zakon.rada.gov.ua/laws/show/257-2022-%D0%BF#Text>

25. Resolution of the Cabinet of Ministers of Ukraine "Issues of determining the powers of certain bodies in the field of compliance with international humanitarian law throughout Ukraine" of September 12, 2023, No. 975: <https://zakon.rada.gov.ua/laws/show/975-2023-%D0%BF#Text>

26. Ukraine still has an imperfect system of protection for missing persons and their families: statement by human rights defenders, 30.08.2023: <https://zmina.ua/statements/v-ukrayini-dosi-nedoskonala-systema-zahystu-znyklyh-bezvisty-ta-yihnih-rodyn-zayava-pravozahysnykiv/>

27. "Redistribution of functions of the Commissioner for Missing Persons: why it contradicts the law and how it will harm the search for civilians" / ZMINA, 28.09.2023: <https://zmina.info/articles/pererozpodilom-funkcij-upovnovazhenogo-mizh-troma-sylovymy-vidomstvamy-kabmin-stavyt-hrest-na-poshuku-bezvisty-znyklyh-cyvilnyh>

CHAPTER 2

IMPLEMENTATION OF THE PROVISIONS OF THE LAW OF UKRAINE “ON THE LEGAL STATUS OF MISSING PERSONS UNDER SPECIAL CIRCUMSTANCES”: ANALYSIS OF PRACTICE AND INTERVIEW RESULTS

More than six months have passed since the amendments were made and the functions of the Commissioner for Missing Persons under Special Circumstances were redistributed. This period should have been sufficient to establish the functioning of the new system. To analyse the effectiveness of the implementation of the provisions of the Law of Ukraine “On the Legal Status of Missing Persons under Special Circumstances”, as well as the exercise of powers by the structures responsible for the issues of missing persons under special circumstances, interviews were conducted with representatives of the relevant structures, as well as with the families of missing persons.



ЗАКОН УКРАЇНИ



ЗАКОН УКРАЇНИ

2.1 Assessment of the effectiveness of the authorised bodies in performing their functions

The system of bodies dealing with the issues of persons missing under special circumstances is quite extensive. Given the difference in their powers and the degree of involvement of these bodies in the processes of obtaining the status of a missing person under special circumstances, communication with the families of such persons, provision of social assistance, etc., the effectiveness of the performance of these functions by each of the relevant structures should be considered separately.

To fully understand the effectiveness of the authorities in performing their functions, the analysis is based on the assessment of the families of persons - both military and

civilian - who went missing under special circumstances, the experience of NGOs that unite the families of such persons and provide various types of assistance on these issues, as well as representatives of the authorities and structures working on the issues of missing persons under special circumstances.

Despite the different assessments of individual bodies and structures dealing with the issues of missing persons under special circumstances, all respondents from families and representatives of civil society organisations highlighted several main common problems. Some of them are described below.

1

SEVERAL BODIES WITH DIFFERENT FUNCTIONS, WHICH COMPLICATES THE UNDERSTANDING OF THE PROCESS. A significant number of relatives of persons who went missing under special circumstances believe that it is quite difficult to understand which body is responsible for what.

"But the fact that we don't have a single state organisation was a huge disadvantage from the very beginning. Firstly, you don't know where to turn. We applied to the SSU, to the NIB, to the Coordination Headquarters. The police. There were a lot of these organisations. After you have submitted the documents for the first time, and then from time to time you have a question or need to know what to do... You come and ask: "What should I do next?". They advise you, for example: "Go to the NIB". So you go to the NIB: "What should I do next?". They say: "You should also contact, for example,..". And it turns out that the Coordination Headquarters advises you to contact the NIB. The NIB advises you to contact the SSU. And the SSU advises to contact the Coordination Headquarters - and the circle is closed."

(From an interview with a representative of the family of a missing service member)

Families are forced to apply to different bodies, providing them basically with the same information. Despite the existence of the position of the Commissioner for Missing Persons under Special Circumstances, families do not feel that he is a single point of contact for contacting state authorities in connection with the disappearance of a loved one.

In addition, the respondents noted the lack of proper coordination and communication between different bodies and structures, which is why they must apply to each institution separately with the information they have. This lack of coordination and communication between the different agencies and institutions also slows down and complicates the process of searching and communicating with families.

"We have a very large number of bodies involved... well, not a large number, but a number of bodies that are involved in the search or systems of databases of missing persons and prisoners. We need to improve their interaction. It's clear that each body is responsible for its own functions and powers, but it's important that... all bodies have some basic information. Because in fact, families have to submit the same information to all the authorities: to the SSU Joint Centre, to the Coordination Headquarters, to their investigator, to the NIB, to the Red Cross, to the Ministry of Internal Affairs - everywhere. So, if there is any new information... you also provide it everywhere."

(From an interview with a representative of an organisation of families of missing persons)

"Because they have transferred powers to different bodies, and now we are getting the same thing from structure to structure. That is, relatives are simply sent away, relieving themselves of responsibility. This is a big disadvantage. Because there is no communication between the departments and these bodies. There is no interaction between them. It's hard for the families. Our example is when we dealt with the issue of search teams in order to carry out an operation, for example, to raise boats, to raise bodies from boats. In other words, to develop an operational search group at sea. And when we started writing requests to understand who is responsible, which body should organise these groups and who it depends on, we have not received a response to date. Because each body sends us to the General Staff. And the General Staff tells us that this is not their responsibility, they are only responsible on land. And it turns out that no one is dealing with this at sea. So this is our first problem, that we have gone through all the authorities. We just don't have proper communication. We still don't understand whose authority it is. Although the decree states that the General Staff should organise and conduct search groups."

(From an interview with a representative of an organisation of families of missing persons)

2

LACK OF COMMUNICATION WITH THE FAMILIES OF MISSING PERSONS BY THE BODIES AND STRUCTURES DEALING WITH THE ISSUES OF MISSING PERSONS UNDER SPECIAL CIRCUMSTANCES.

It essentially results from the absence of a single body that would be the first point of contact for relatives of missing persons and provide information about all steps of the process, not just the functionality of one body. The lack of communication also means that individual institutions should first provide information on the algorithm of actions in case of a missing person, and then inform families about the actions taken by the institutions within their powers.

"We were not born with this information in our heads. When we are faced with this, we are like chased dogs - where to run, what to do? In general, when you come to the military enlistment office, everything should be there. They should tell you where to go, what to do, where to go, where to call. But, again, they don't tell everyone. You come in, you write an application, you get a notification - that's it, goodbye. As they say: "I have hundreds of people like you". They say this everywhere."

(From an interview with a representative of an organisation of families of missing persons)

I have hundreds of people

like you

According to the respondents, the possibility of access to information by vulnerable groups of the population, in particular the elderly, is also not taken into account in

state communication. Communication is mainly carried out through electronic means of communication, access to which, including the Internet, is limited.

"Because not everyone has access to the Internet. We have a mother who is 80 years old and has a push-button mobile phone. We just gave it to her as a gift so that she could at least see what we write in the group or watch the same channels. She had already learnt to do that. But when she came to the military enlistment office, she was not even told that she had to file an appeal somewhere else. A lot of applications are in electronic form, and they need to be signed with an electronic key. How could an 80-year-old woman have this electronic signature? She doesn't have it. You need it so that you can send it to her by registered mail with a notice. But no one says this. There are only email addresses everywhere. I understand that we live in the 21st century, but there are people who have difficulty with this."

(From an interview with a representative of an organisation of families of missing persons)

A similar problem is observed in the context of informing the target audience: contacts of the relevant authorities and institutions for applying, information on the functionality of individual bodies is posted on official websites and official pages in social networks. Although this covers a

significant part of the target audience, the question of the adequacy of informing vulnerable categories of the population who have limited access to electronic means of communication or generally use other sources of information remains open.

"They need more informational advertising, that's what I'll call it. I think it should be placed everywhere. Hospitals should have such templates, booklets. In every authority, in ASCs, in territorial communities. That is, in city councils, in state councils - everywhere. Any institution should have information or some kind of reminder for families. Or just a short notice: "Is a person missing? Contact us". And there should be all the communication. Just like the roadmap for families that the Coordination Headquarters has developed. It is a very convenient roadmap. People do not know where to find it. You need to go to the website of the Coordination Headquarters. If it is a grandmother, she will not go there. But if it is printed out at the post office where she goes to receive her pension, she will see it."

(From an interview with a representative of an organisation of families of missing persons)

Representatives of state bodies and institutions responsible for dealing with the issues of missing persons also state the urgency of this problem. In particular, attention is drawn

to the lack of alternative ways of informing vulnerable categories who have limited access to electronic means of communication.

"For example, we sent the algorithm by text message, so if you go to the active link, then, again, if you have a smartphone, you will go to it and see everything on the screen. But what if a person has an old phone? What should they do? Well, they won't see the algorithm and won't know. If they don't have the internet, they won't know either. So, this is a problem - the problem of informing the public, it is relevant."

(From an interview with a representative of the Office of the Commissioner for Missing Persons under Special Circumstances)

the problem of informing

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Relatives of missing persons perceive the lack of proper and effective communication by state bodies and institutions as a lack of interest in their fate and an unwillingness to hear them.



"The most common problem is the lack of communication, of contacts between all the authorities and families. We have to knock on their doors ourselves. Families who find themselves in such situations would like our agencies to do a better job, not in helping them, but in finding their relatives, in communicating with us, with families. Why do we come to these rallies? Because no one hears us. We go there to be heard."

(From an interview with a representative of an organisation of families of missing persons)

Representatives of state bodies and institutions also note the problem of ensuring proper communication by the state, especially given the number of persons who went missing under special circumstances and, accordingly,

their relatives who requested this information. They point out the limited information about the system of bodies and their functionality and the dissemination of this information through various communication channels.

"I can say that the state is losing the information policy. It is trying to attract resources that are not created in the Coordination Headquarters. But how can we explain to people who have problems that they should contact the Coordination Headquarters? This should be spread throughout the state's activities. This also applies to the work of the Ukrainian Parliament Commissioner: does everyone know about his activities, does everyone understand where to come? In my opinion, this awareness is definitely insufficient. An information policy that is designed only for telegram channels is, in my opinion, a dead end. It works, but the state loses. There should be constant advertising so that people know that, if necessary, they should contact the Coordination Headquarters. This is social advertising. I think this issue needs to be resolved, because the enemy is taking advantage of this, and people believe that the state should be the one to resolve it. Social advertising is what people need. When we say that we have 42,000 missing persons, it's not even a small town, it's a district centre or a city of regional subordination. Not only the Coordination Headquarters, but also the government should pay more attention to this."

(From an interview with a representative of the Office of the Ukrainian Parliament Commissioner for Human Rights)

Families of civilians who went missing under special circumstances face specific difficulties. They note that in their case, communication with the relevant authorities and structures is even more difficult, and it is even more difficult to figure out where and how to apply since the system is primarily focused on missing military personnel. In this context, the problems relate to both general information aimed at families of civilians

and communication by representatives of state bodies and institutions on the algorithm of actions for them. At the same time, insufficient attention is paid to sensitive communication with civilian families, in particular through the use of unified response templates that are the same for both military and civilian families, which creates the impression that the latter's problems are invisible.

"MIA... You go to the website. There's a section, subsection, subparagraph somewhere, and you have to write something to find it. It was very difficult. It was easier with the military. I mean, they said about the military: "Military registration and enlistment office and military unit. That's it". And civilians? Civilians were not a priority. And the police there said... When my father came to the police, they said: "Go to the military commissariat". He was sent to the military commissariat when he came to the police for the first time. My father asked: "Why? He was taken prisoner". He said: "But he didn't serve". "No, go there". My father came, and the military commissariat sent him back: "Why did you come? He's a civilian, he didn't serve. Go to the police". So he went: "Police, open the door". That is, at the beginning, this did not happen. Now, in 2023... Yes, there were roadmaps, some pictures, links where you go. But today there are no standardised request forms.

The Coordination Headquarters? I didn't really like their answer. It was a standard answer for everyone. When I wrote about my brother, a civilian, I got a response: "We care about all defenders. We are trying to bring them back"."

(From an interview with a representative of the family of a missing civilian)

The existence of a serious problem with communication and the performance of functions by the authorities concerning civilians is also confirmed by representatives of the state.

"Further, if we consider all these categories, I believe - and I'm not the only one, this is the opinion of many - that the problem of our civilians is the most difficult. This category is the most problematic and the least protected. No matter what sphere of activity you take, even the information sphere, the correct coverage by journalists, I believe that civilians are not given enough attention. The situation with civilians is much worse. People simply do not know who to contact."

(From an interview with a representative of the Office of the Ukrainian Parliament Commissioner for Human Rights)

However, the position of some representatives of the bodies and structures responsible for the issue of missing persons under special circumstances regarding communication with families is disappointing.

we are doing
everything possible

"No one really needs them, because they only make things difficult in this process. I spend about 80 per cent of my working time... just writing responses to citizens' appeals: there is information about your relative in the system, we are doing everything possible. But it's not that it's not my function... I could work much more efficiently, but I'm constrained by this work. And we have eight lawyers like me."

(From an interview with a representative of the Coordination Headquarters for the Treatment of Prisoners of War)

The above-mentioned communication problems lead to the fact that respondents consider associations of relatives of missing persons under special circumstances in social networks, both general and individual for specific

military units, and relevant resources of NGOs that are associations of relatives, to be the most useful for obtaining information on algorithms of actions and opportunities for social support.

"The state authorities do not update the information and do not provide it to the nearest relatives. This is the most painful thing, it is very, very confusing and very painful. Then we all solve legal issues on our own, just like word of mouth. I have my own group in Telegram, and I have the following: one branch contains samples of applications and requests, the second branch contains the mandatory documents that are required, all samples of mandatory documents. The third branch contains addresses and phone numbers of officials and government agencies. Because people don't know, and it's all done by word of mouth."

(From an interview with a representative of an organisation of families of missing persons)

"Then, in 2023. The Coordination Headquarters wrote on its telegram channel: 'We are asking you, all relatives, to write here, write there. Here is the link'. But in this amount of information, it is not informative, people don't get it. Word of mouth is more effective - our specialised group. Because people are united by one issue. The information is concentrated, verified, or filtered by what is needed. That is, there are references to other, general information. There is already a selected list of what is needed."

(From an interview with a representative of the family of a missing civilian)



At the same time, respondents also express dissatisfaction with communication from the International Committee of the Red Cross - after applying and entering information about a person, there is no communication.

"The Red Cross has zero information. Zero! Absolutely nothing. They called back once: 'How are you doing?'. And that was it."

(From an interview with a representative of the family of a missing service member)

LIMITED HUMAN RESOURCES IN THE BODIES AND STRUCTURES DEALING WITH MISSING PERSONS UNDER SPECIAL CIRCUMSTANCES.

The staff shortage primarily affects the ability of investigators to handle the volume of proceedings on missing persons under special circumstances, their communication with families, and the processing and reporting of DNA test results. Due to the high workload of representatives of these bodies and structures, the processes of both searching and informing families about the progress of proceedings are slowing down.

"I think it is primarily a human resource. Because even if we take the same investigative bodies, there are two or three hundred cases per investigator. They just don't have time to do it physically. This is a big problem. That's why I think that, first of all, it's personal resources."

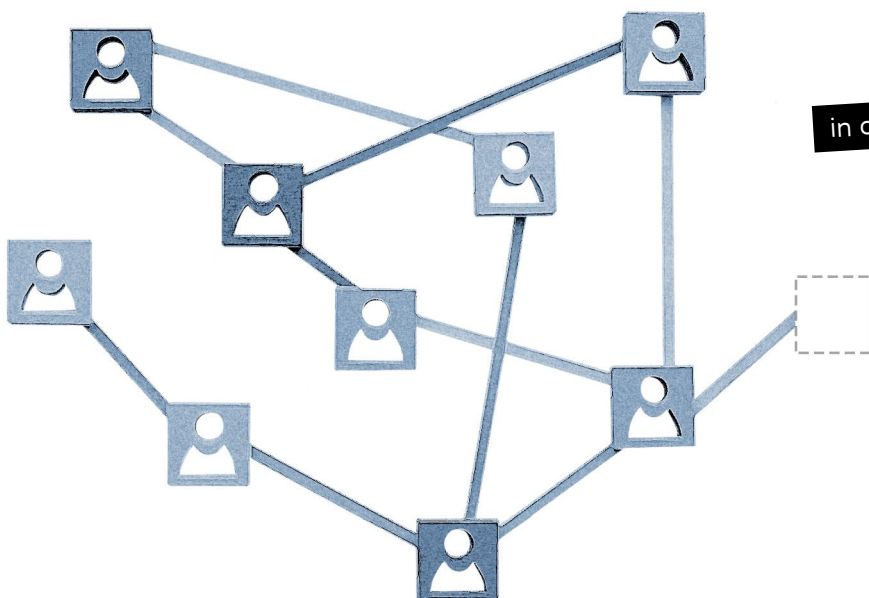
(From an interview with a representative of an organisation of families of missing persons)

Representatives of the bodies and structures dealing with the issues of missing persons under special circumstances also point out the need to increase human resources to properly perform their duties.

"There are staff issues, and we are trying to communicate this to the managers so that we can expand our staff. But right now... you know, in order to expand something, you have to cut something."

(From an interview with a representative of the Office of the Commissioner for Missing Persons under Special Circumstances)

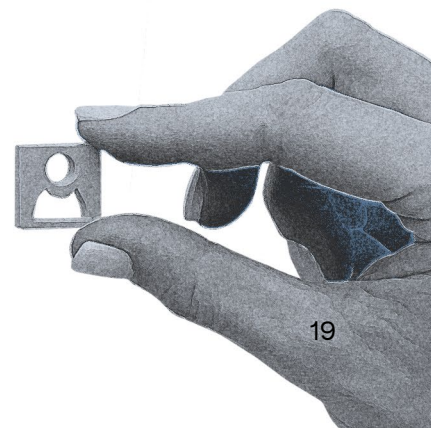
In addition to the general problems mentioned by the respondents during the interviews, they also described problems in the implementation of powers by representatives of certain state authorities and institutions.



in order to expand something

you have to

cut something





NATIONAL POLICE OF UKRAINE

The National Police of Ukraine is one of the first bodies that families of missing persons under special circumstances apply to, as it is the territorial bodies of the National Police that apply for the search of a person, which is the basis for the relevant proceedings.

In addition, the frequent change of investigators in charge of the proceeding due to their workload also slows down the process.

Respondents from both relatives of missing persons under special circumstances and representatives of civil society organisations noted that although there were problems with the opening of proceedings for missing persons under special circumstances since the beginning of the full-scale invasion (preliminary refusal to open a proceeding for a civilian due to lack of understanding of jurisdiction and incorrect qualifications), they mostly do not face problems at any stage of the process.



The problem we have right now is investigators. When we opened cases at the place of residence, everything was fine. They, in our case, the Bakhmut police, transfer the case there - and that's it, the connection with the investigators is simply lost. We can't find them there anymore; they change every week or two. We have 80% of families who do not know who their investigators are. Investigators change frequently. This is also a problem for us, because cases are transferred during the same period. It takes a while for a new one to be appointed, for them to open these investigations. Perhaps there is something more urgent. Well, it's all about time. And all of this is delayed. I understand that there are thousands of cases for these poor, miserable investigators. And there's a lot of bureaucracy, as usual, paperwork - everything, everything, everything. And it takes up time that could be used in other ways.

However, difficulties arise at other stages. In particular, both relatives and representatives of NGOs note that communication with investigators to whom proceedings are transferred under territorial jurisdiction is difficult - respectively, the proceeding is transferred to representatives of the National Police in the territorial units of Donetsk, Luhansk, Kherson, and Zaporizhzhia regions. Given the workload of investigators in the partially occupied and frontline regions, investigative actions are significantly slowed down, and families cannot find out the status of the proceedings for a long time.

(From an interview with a representative of the family of a missing service member)



Національне інформаційне бюро

NATIONAL INFORMATION BUREAU (NIB)

The families of persons who went missing under special circumstances also apply to the NIB to record information about the missing person in the NIB register (which is different from the Unified Register of Missing Persons under Special Circumstances). According to families, the

function of the NIB is limited to collecting and storing information. At the same time, some family respondents noted that the NIB hotline provided them with a brief consultation on further steps, including the need to file a report with the National Police of Ukraine.



A MILITARY UNIT AND A TERRITORIAL CENTRE OF RECRUITMENT AND SOCIAL SUPPORT

In the event of a missing service member, the Territorial Centre of Recruitment and Social Support (hereinafter - TCRSS) is responsible for serving a notice to the family of the missing person. Families receive the results of the

official investigation from the military units where the person served - an extract from the official investigation report is the only document that families have the right to receive from the TCRSS.

The families of missing military personnel and representatives of civil society organisations note that the experience of communication with the military unit and the TCRSS can vary significantly. Some did not report any problems with obtaining the necessary documents and reported assistance with further steps.

“Immediately, on the very first day I arrived in Ukraine and first went to the military commissariat, I was given an official notification to sign, which I received on Viber. And I was given a piece of paper with instructions on where to go. And they immediately offered: “Write an application for the payment of your husband's allowance. So, that you... have something to live on”.

(From an interview with a representative of the family of a missing service member)

At the same time, other families have questions about the quality of communication, including the inappropriate attitude towards them, as well as unjustified refusals to provide requested documents, which are the function of these structures.

“We had problems: they would not give us an extract from the investigation report. So, we wrote an appeal to the TCRSS to the unit, demanding that they send us extracts from the investigation report, the combat log, and so on. We have no right to receive the official investigation report itself, because it is classified information. It contains the names... But we have the right to receive an extract from the investigation report. Because it says that the service member did not go missing while intoxicated but went missing with a weapon. That is, the service member really disappeared while performing a combat mission. This entitles the family to receive financial support until they find the missing service member. Some TCRSSs won't even let you see the file in person. It's been more than a year and a half since then, and some families have not received their extracts yet.

(From an interview with a representative of an organisation of families of missing persons)

“Therefore, the attitude of the TCRSS to families, the communication of TCRSS representatives with families - I had women come out with hysterics right from there. Therefore, their attitude is... an abuse of power, because I personally faced such abuse. The military unit provided me with documents, but the TCRSS did not issue them. At my request, the military unit sent me the documents, because the correspondence is carried out through the TCRSS, but the TCRSS did not give them to me. At first, they said: “We will give you copies”. I said: “No, I don't need... they were given to me in copies, only certified by the military unit”. And they wanted to give me copies certified by them, that is, by the TCRSS. I said: “No, I don't need the documents in this form”. Then they refused first verbally, then in writing. And then, after a number of complaints, to which no one responded, they gave them to me anyway.

(From an interview with a representative of an organisation of families of missing persons)

Representatives of other state bodies and institutions dealing with their issues also note this inappropriate attitude and incorrect communication with families.

“Frankly, there are some commanders who have a terrible attitude towards family members. “We will find them, we will send them, why do you come here?”. The TCRSSs say that they only deal with the dead and ask why they come to the missing persons' issues.

(From an interview with a representative of the Office of the Ukrainian Parliament Commissioner for Human Rights)



The work of the Coordination Headquarters and Regional Centres is also assessed differently by respondents, with both negative and positive experiences of relatives of military and civilian missing persons.

Among the positive factors, relatives note the structure of meetings with them by representatives of the

COORDINATION HEADQUARTERS FOR THE TREATMENT OF PRISONERS OF WAR AND REGIONAL CENTRES

Coordination Headquarters, the assistance in the procedure of actions as well as the preparation of the necessary documents from representatives of regional centres. The Personal Account on the Coordination Centre's website is also considered convenient to use, as it makes it easy to track any changes in the status of a missing person.

“ The Coordination Headquarters also has a personal account. You can go there and ask questions without the need to come to a meeting, for example. You ask questions, and they are answered very quickly. I like this.

(From an interview with a representative of the family of a missing service member)

At the same time, relatives highlight certain cases of mistakes and failures in activities that cause them significant suffering. Moreover, the negative impact of this situation is aggravated by the inadequate communication after such incidents by state bodies and institutions.

“ I personally, for example, received an official letter from the Central Coordination Headquarters in Kyiv six months after my husband's disappearance, stating that my husband had been confirmed as a prisoner of war by the International Committee of the Red Cross. So, you can imagine the range of emotions I felt at the moment I received this official document, from the DIU. I alerted everyone, went to the investigator, and presented it as evidence. I called Geneva, and it took me two weeks to resolve this issue and find out that it was just a mistake. They just sent me a document by mistake that my husband was confirmed by Russia through the Red Cross. And it took the DIU two weeks to clarify the situation. So, you can imagine how the second time... there was a moment when their system went down, and a message was sent to everyone that people were in captivity. I'm sorry, I'm sorry. So, they always have these excuses: our system is down, we have something wrong with it, we're doing everything we can, and Russia doesn't let us. That's it, we're cool - there were even things like "you're promoting the enemy's narrative here", you know? That is the way these people communicate, the way they are trained, this is their methodology.

(From an interview with a representative of an organisation of families of missing persons)

Several respondents also noted the lack of effective work of the regional centres, in particular in terms of training of representatives who were not aware of the current legislation and provided inaccurate information on the available social support for families of persons who went missing under special circumstances.

“ We have a centre here of the Coordination Headquarters, and it was in Lviv that I applied. Now, the Law of Ukraine "On the Legal Status of Missing Persons

under Special Circumstances" provides for a survivor's pension for children of missing persons. And the lawyer of the Coordination Headquarters here in Lviv was just swearing at me, telling me that my child was not entitled to that pension. And he gave such arguments that... well, just childish arguments. They are great experts there, as they consider themselves to be. And here I am alone, fighting with the Pension Fund for six months, because I have no support from the state, no legal support.

(From an interview with a representative of an organisation of families of missing persons)

Representatives of the authorities also talk about the difficulties that cause problems in the work of the Coordination Headquarters. In particular, they highlight the limited staff and the need for constant training of new people due to personnel changes.

“ There is a lack of practical staff, because most of them are not part of the staff but are seconded from military units. They work, but if the brigade commander says: "That's enough, you've been in Kyiv, you've rested, now go back to our reserve unit, to the training centre, to the combat unit", etc., we lose a person who already has experience and knows how to work. That is why, first of all, we need an official establishment of the staff.

(From an interview with a representative of the Coordination Headquarters for the Treatment of Prisoners of War)

In addition, the Coordination Headquarters' status as an auxiliary temporary body of the Cabinet of Ministers limits its ability to receive assistance and influence decision-making on issues for which it is responsible.

“ If we write something to the Cabinet of Ministers - that we propose to do this, that, and the other - what does the Cabinet do? It sends it to ministries, other ministries... some say "We don't care", others say "Okay, we agree", and others say "We don't agree". This coordination can go on... well, I'm watching several of our attempts to improve the legislation through various Cabinet of Ministers resolutions - these are not even laws. This has been going on for over a year.

(From an interview with a representative of the Coordination Headquarters for the Treatment of Prisoners of War)



THE COMMISSIONER FOR MISSING PERSONS UNDER SPECIAL CIRCUMSTANCES AND THE SECRETARIAT OF THE COMMISSIONER

In terms of assessing the performance of the Commissioner and his Secretariat, the opinions of respondents from among relatives of persons who went missing under special circumstances and representatives of relatives' organisations were almost equally divided, with a slight predominance of a more positive assessment of the institution's work before the redistribution of powers.

In particular, the first group of respondents noted dissatisfaction with the Commissioner's activities after the transfer of this position from the Ministry of Reintegration to the MIA and the appointment of a new Commissioner. Families refer to better communication and an individual approach to solving problems that existed before.

I would put Kotenko's staff in the first place. At that time, we were working with him when he was the head of the department. He was the most effective because he never refused us even a face-to-face meeting when we asked him. He always found time to hold our group meetings, advised us in one way or another on how to write to the police in the Donetsk region, how to get in touch with the investigator, and gave us valuable advice in the documentation. In other words, Kotenko's staff was in the first place in terms of the feedback provided by all these structures.

(From an interview with a representative of the family of a missing service member)

Look, when it was headed by Mr. Kotenko [Commissioner for Missing Persons under Special Circumstances at the Ministry of Reintegration of the Temporarily Occupied Territories - editor's note] when we were still cooperating with him, we had better communication. We were constantly in touch. We were helped in solving some necessary issues. That is, we felt more involved than we do now. Because now, even at personal meetings, everything is a little bit... How can I explain it to you? It's easy for them, you know, it's like a system. One NGO came and they held a meeting. We left. That's it, they have already forgotten about us. Others came. So, it happens automatically because the legislation says so.

(From an interview with a representative of an organisation of families of missing persons)

The respondents also refer to what they consider to be the proper performance of the functions of conducting field missions, negotiations and exchange of bodies, which were performed by the Commissioner for Missing Persons under Special Circumstances before the redistribution of powers.

At the same time, if we take the work of the Commissioner for the Rights of Missing Persons under Special Circumstances, the work that was done before and the work that is done now are completely different levels. Now it's just collecting information, and that's it. In the past, bodies were constantly returned, much more often by repatriation. There were even a lot of field exchanges, so it was better for families in the past.

(From an interview with a representative of an organisation of families of missing persons)

Some also noted a lack of understanding of the need to redistribute the powers exercised by the Commissioner between different bodies and their role in the institution's current activities.

We transferred some functions there, and some here. This went on for some time. Nobody would have done anything until they sorted out their own functionality. And who will do what now? As far as I understand, the Commissioner has been appointed again. That is, the same position, but with a different person... with a different head.

(From an interview with a representative of the family of a missing service member)

Another group of respondents, on the contrary, believes that the activities of the Commissioner and the Secretariat have changed for the better. This, according to representatives of non-governmental organisations and families, is reflected in effective communication, both personal and on official websites, as well as in explanations to other bodies responsible for social support for families of persons who went missing under special circumstances.

In my opinion, the most adequate information is provided by the Secretariat of the Commissioner for Missing Persons under Special Circumstances. I believe that the MIA and the representatives of the regions that we have now are really the most competent bodies. And they have such a great telegram channel, constantly up-to-date information, without unneeded information, always phone numbers, explanations that are confirmed by the laws of Ukraine. That is links to articles where you have to go to the Pension Fund. This Secretariat under the MIA is fighting with the Pension Fund for those pensions. That is, now people can apply directly to the Commissioner Dobroserdov, and he is already fighting with the Pension Fund, giving them explanations, etc.

(From an interview with a representative of an organisation of families of missing persons)

“ If we talk about communication with state bodies, for example, the MIA has a Commissioner for Missing Persons, then today there is better communication and cooperation. In the first months, this was a very big problem. There were many problematic issues in communication with them and in their work. I understand that this is the beginning. They were just being created. Someone did not know a lot of things. As long as this process has been established, then... Today I am almost satisfied, if there is such an answer. I'll answer like this: I'm almost satisfied.

(From an interview with a representative of an organisation of families of missing persons)

There is also no consensus among representatives of the structures responsible for dealing with the issues of missing persons under special circumstances.

In particular, some of them point to positive changes in the Commissioner's work after the redistribution of functions and appreciate the expansion of the range of issues he deals with regarding military and civilians.

“ When we had the Commissioner of the Ministry of Integration, Oleh Kotenko, it was more about searching for the dead, exhumation, search groups, returning bodies, etc. Today, the Commissioner for Missing Persons deals with all missing persons.

(From an interview with a representative of the Office of the Ukrainian Parliament Commissioner for Human Rights)

Other representatives of state bodies and institutions note that with the change of powers, the institution has become ineffective and does not perform important functions at all.

“ The Office of the Commissioner was created, but its functions, unfortunately, were not clearly defined. And he has no influence on anything. That is why everything is now decided solely by the Coordination Headquarters for the Treatment of Prisoners of War and Missing Persons under the Defense Intelligence of Ukraine. The military personnel are still handled along the military line. Civilians are hardly ever searched for. The Coordination Headquarters is in charge of the search. Everyone is focused on it. Again, the Register is not managed by the Commissioner. It is not the Commissioner who fills the Register of Missing Persons. They solve some issues, but they are just on another level. Unfortunately, this is a dysfunctional body at the moment. This is my opinion.

(From an interview with a representative of the civil-military cooperation group of the Armed Forces of Ukraine)



2.2 Challenges of the procedure for obtaining the status of a missing person under special circumstances

According to the Secretariat of the Commissioner for Missing Persons under Special Circumstances, as of mid-June 2024, 27,886 extracts from the Register of Missing Persons under Special Circumstances were provided.²⁸ Respondents noted that there were mostly no problems with obtaining the status of a missing person under special circumstances and obtaining an extract from the Register.

The episodes of difficulties that used to occur much more often are rare. The most common ones include incorrectly indicating personal information such as address, date of birth, etc.

27 886 extracts

Were provided from the Register of Missing Persons under Special Circumstances as of June 2024

28. Response of the Office for Missing Persons under Special Circumstances (Secretariat of the Commissioner for Missing Persons under Special Circumstances), Ministry of Internal Affairs of Ukraine to the appeal No. 06_125 of 19.06.2024.

"We had cases where relatives had mistakes, mistakes in their surnames. But then this extract... it was easy to write to them that I had such a mistake or call their MIA hotline, and in two weeks a new extract was issued with the corrected date or corrected surname, that's how it was. It worked very clearly, well, the way it should."

(From an interview with a representative of the family of a missing service member)

"There were no difficulties with the paperwork, there was one stage when we submitted the documents and indicated the wrong birth address and place of birth. Because we live in the Kyiv region, but our place of birth is in western Ukraine. And the Register itself indicated the wrong place of birth. I then turned to Anhelin, who was Kotenko's lawyer at the time. He spoke to someone, and the request was forwarded to the Ministry of Internal Affairs, explaining that the place of residence in the Register needed to be corrected. And when I made my next request, I received a correct extract with the correct data. That is, everything is online, everything is available, I didn't have to write anything anywhere."

(From an interview with a representative of the family of a missing service member)

In the case of military personnel missing under special circumstances, respondents also noted the existence of rare cases of qualification of the actions of a military as absence without leave, which, accordingly, makes it impossible to obtain the status of a missing person under special circumstances.

"There is a moment when a military unit qualifies the actions of a serviceman as AWOL²⁹. Although the person was in a combat zone. We also have such cases, and we are now dealing with them, but unfortunately, there are also such cases. We have a person who was shot and broadcasted on all the Russian TV channels, and the Russians wrote to the person's family, and we cannot take the body, but the military unit qualifies the actions as AWOL. Therefore, we need a proper qualification of the actions, because, unfortunately, this happens. These are rare cases when they are told that it is AWOL, we have such a case. But we also changed their status to missing persons. How is it possible that a person does not have an AWOL status, but he has an AWOL status? These are also rare cases, there are no difficulties with this."

(From an interview with a representative of an organisation of families of missing persons)

Representatives of state bodies and institutions also note the improvement in the work of the Register and the absence of appeals regarding the impossibility of obtaining an extract.

"To date, people have been afraid that the Commissioner for Missing Persons under Special Circumstances has been transferred from the Ministry of Reintegration to the MIA. We support this move, and we can state that it has significantly improved the situation. The Register has been put in a considerable order. Today, there are actually no appeals from citizens regarding the impossibility of obtaining an extract."

(From an interview with a representative of the Office of the Ukrainian Parliament Commissioner for Human Rights)

29. AWOL is an unauthorised leaving of a military unit or place of service (without permission/order of the commander), which is punishable under Article 407 of the Criminal Code of Ukraine.

2.3. Financial support, registration of a survivor's pension

Relatives of missing persons reported low awareness of social guarantees, including the possibility of receiving a survivor's pension. Four people (three of them relatives of missing civilians) stated that they were not aware of any social guarantees and had not received such information from representatives of

state bodies and structures they had contacted due to the missing person.

At the same time, one of the representatives of the state structures also noted that he was not aware of the possibility of receiving a survivor's pension in this case.

"There is no loss of the primary income earner, they are missing... If a person is considered missing, they apply to the Commission under the Ministry of Regional Development. And with the certificate of this Commission, they can receive UAH 100,000 a year, I think. This is definitely not the loss of a primary income earner."

(From an interview with a representative of the Coordination Headquarters for the Treatment of Prisoners of War)



Another related problem is the difficulty of obtaining a survivor's pension when applying. Respondents noted the refusal of territorial bodies of the Pension Fund to issue a pension due to the lack of grounds for receiving it - two respondents reported this.

Relatives also report requests for documents not provided for by law and incorrect application or interpretation of the relevant legislation.

“ *And sometimes they also ask when you apply to the Pension Fund... Those who did not apply at once, maybe after a while, were asked to provide an extract from the police pre-trial investigation, that the case was not closed yet, and that the extract should not be more than a month old. There was some kind of requirement that the case was not closed. And it was quite difficult to do. Either the investigators wrote a separate letter... That you can't just send such a piece of paper to the printer, because it is given once. And the Pension Fund wants a second time, so that there is a fresh date, that the investigation is ongoing, that the person is still missing. And so on.*

(From an interview with a representative of the family of a missing soldier)

"There were cases when people applied a year after the disappearance, and the Pension Fund applied the following rule - for the death of the primary income earner. If you apply within a year after the death of the primary income earner, they pay from the moment of death, and if a year has passed, they pay from the moment of application. That is, it is a kind of omission of terms. The fact is that applying this rule to the loss of a primary income earner under the law on missing persons is a bit of a mess. Because the law clearly states that we are entitled to this pension for the entire period when a person has this status. And these people simply take a year and a half from those who did not have time, cut off a year and a half, and give them a pension from the day they apply. They say that we did not meet some deadlines because of the death of the primary income earner. There was no death as a phenomenon at all. There was no death certificate, nothing like that in the list of documents. It was just a trick to save budget money. I think it's nothing more than people being given tasks at work, and they have to fulfil them - the more money they save."

(From an interview with a representative of an organisation of families of missing persons)

Representatives of state bodies and structures also confirm the problem in the context of applying for a survivor's pension.



**ПЕНСІЙНИЙ ФОНД
УКРАЇНИ**

there was no death

as a phenomenon

at all

"There are problems of interaction with the Pension Fund. At least we had a meeting today, and they are happening all the time. While the management of the Pension Fund in Kyiv understands this problem, people on the ground do not always understand it. This is not only a problem for the state fund, but also for some civil servants. When something happens in Kyiv, it takes a while for the regions to get the word out, for the relevant explanations to be given, and only then it starts to work. According to the law, a person who has received an extract stating that their relative is missing under special circumstances can submit this extract to the Pension Fund and be granted a temporary survivor's pension. But this does not happen."

(From an interview with a representative of the Office of the Ukrainian Parliament Commissioner for Human Rights)

In addition, in some cases, representatives of the Pension Fund's territorial offices provide subjective assessments of actions and make inappropriate comments to families when they apply for a pension.

"What I heard was that the Pension Fund employees there say: "Why do you need that pension if you have UAH 100,000? Isn't UAH 100,000 enough for you?"

(From an interview with a representative of an organisation of families of missing persons)



Certain issues also arise that are not regulated by law, in particular, the date of death of a person who had the status of missing under special circumstances and, accordingly, the receipt of a survivor's pension for the period when such a person had the status of missing under special circumstances.

“ Now we have a problem with people whose relatives have been missing for two years, there are guys who were returned on a shield only after some time of exchange with the tanks of the deceased. And only recently, for example, a person was buried, two years later. But the date of death is calculated from the time when the person disappeared. For example, on April 23, 2022, a person disappeared - this is considered the date of their death. And here the question arises: women receive this pension, which is counted... And it turns out that we have two families of such people, and this, as I understand it, is not only their problem. When a person dies, they are buried or declared dead in court. And then the Pension Fund demands the return of the pension. If the relatives refuse to return it, they sue, and the court decides to return the pension back to them, and that's the question. Yesterday we asked this question, but, unfortunately, we were not given an answer, they said that this was the first time they had heard about it and that they would find out what was going on and then tell us what was going on.

(From an interview with a representative of the family of a missing service member)

It is worth mentioning again that the survivor's pension is the only social guarantee for relatives of civilians who went missing under special circumstances.

Relatives of military personnel who went missing under special circumstances mostly stated that they were aware of the availability of other benefits, such as privileges for public transport and utility payments, which are implemented with a certificate of a family member who went missing, which requires a court decision on the recognition of the person as missing.

At the same time, some relatives reported that they do not use the available benefits due to possible negative attitudes.

"But when it comes to free transport, you have to open your ID card and show it to the bus driver. They are usually very "nice". Very few of our girls use it. You need to have a certain nerve to open your ID card. And be prepared for the fact that you may get a negative reaction to this ID."

(From an interview with a representative of the family of a missing service member)

The main problem for the relatives of military personnel is the priority of receiving financial support from military personnel. It is stipulated that the spouse has the priority right to receive the payment, and parents exercise the right to receive financial support only in the absence of those categories of persons who have the priority right, which in some cases leads to a conflict of interest.

"The issue of payment of financial support is completely wrongly regulated. Because this issue has been raised more than once, the ex-wife, who hasn't lived with this man for a hundred years, but they have a child together, cannot receive all the military's allowance. The child is entitled to alimony. So, please, let them receive alimony in the amount of alimony. And let this financial support remain, for example, on the account of the military, and in the future, if the person died, it should be according to the procedure for obtaining an inheritance: respectively, the first line, the second line, as it should be. Or then somehow regulate this issue so that the parents also receive. In general, my opinion is that... I think it would be right in the case when a service member is single and divorced, that these funds should be in their account. Accordingly, alimony would be paid to the child because our military come back barefoot, and we don't know how to help them. And the person spent two years in captivity."

(From an interview with a representative of an organisation of families of missing persons)

"There are controversial issues when, for example, the first spouse is entitled to the payment of financial support under our legislation. This is the wife or husband. And we have a problematic issue when a wife wants to declare a serviceman dead in order to receive a one-off allowance of fifteen million hryvnia. And the mother is against it. And in the trial, they are trying to figure it out. The mother and daughter-in-law are suing. But in fact, even if she wins this court, all the money will still go to his wife, who is not interested in the search, she is not interested. She just wants to get the money. So, the mother is not protected from any side at all. This is not regulated."

(From an interview with a representative of an organisation of families of missing persons)

Awareness of assistance for families of missing persons under special circumstances from the local authorities is low. In addition, most respondents say that such assistance is not available in their region.

Families also report support from NGOs and charitable foundations in the form of humanitarian aid and one-off payments (in particular, from the Ukrainian Red Cross Society).



2.4. Psychological support

Legislation does not directly provide for psychological assistance to families of missing persons under special circumstances. At the same time, families report the availability of free psychological assistance, which they

learn about from NGOs, within communities of relatives and sometimes from representatives of state structures, to whom they apply. The quality of such assistance, however, varies.

"That is, no one has applied to the free ones. [And what is the reason for not going to the free ones?] Because we can say it ourselves: "Hang in there, everything will be fine". So yes, unqualified help."

(From an interview with a representative of an organisation of families of missing persons)

Some respondents also pointed out the limitations of such assistance in the context of the lack of qualified assistance for certain vulnerable categories of the population in need, such as preschool children, and even more so for children with autism spectrum disorders.

Relatives also point to the need for a special approach to psychological assistance to families of missing persons. It is the limited individual approach, which is difficult for relatives to decide on and, accordingly, they do not receive any help at all. A group format of communication between relatives and a specialist seems to be more effective.

“ *There is the Western Centre of the Coordination Headquarters in Lviv, where psychologists are available. But they do not work with such preschoolers. I said: "What should preschoolers do?". Well, there are no specialists for preschoolers, and even more so for autistic preschoolers - I can't get them psychological support. There is psychological help for adults, I applied for it myself. There are all sorts of people. This is even more of a public activity of people, it's not even from the state or municipal authorities, it's more from NGOs.*

(From an interview with a representative of an organisation of families of missing persons)

"In the format, if it is some kind of meeting in terms of families. Events where these families are present and, perhaps, in communication... some kind of assistance in communication among these families. I'll give you an example: the Red Cross and I are currently planning meetings with families, but these meetings are in the form of "we will do something", or, for example, plant flowers, and there will be a psychologist who is also involved in this process... we will, of course, talk about what worries us, and, accordingly, there will be a psychologist who will probably give some advice. And in the future, the person may open up to them more. Because psychological help, as it is, does not work in its classical form. In our situation... I've tried to provide individual counselling to families, but unfortunately, it doesn't work that way."

(From an interview with a representative of an organisation of families of missing persons)



CONCLUSIONS:

- 1.** The main legal act defining the status of missing persons under special circumstances, their rights and guarantees is the Law of Ukraine "On the Legal Status of Missing Persons under Special Circumstances". Additional guarantees are also defined in other regulations, in particular, the one on the right to receive a survivor's pension. At the same time, the systems of guarantees for military and civilian persons missing under special circumstances, as well as their relatives, differ significantly - while the law on missing persons and the right to a survivor's pension is essentially the only guarantee for civilians, the military has several other guarantees, including deferral of credit obligations, deferral of mobilisation for close relatives, payment of financial support, etc.
- 2.** The system of bodies dealing with the issues of missing persons under special circumstances is branched - some bodies, such as the MHU and the SES, have a narrow mandate, while the institution of the Commissioner for Missing Persons under Special Circumstances is the central institution of the system. At the same time, the Commissioner's functions were limited, and some powers were transferred to other institutions: The Coordination Headquarters and the Central Department of Civil-Military Cooperation of the General Staff of the Armed Forces, in particular, to form and coordinate search groups and negotiate with humanitarian missions, organisations and individuals in the occupied territories.
- 3.** Since the redistribution of powers in 2023 and the transfer of the position of the Commissioner for Missing Persons under Special Circumstances to the MIA, some functions have been in a 'grey zone' due to the uncertainty of the bodies responsible for their implementation. In addition, the Law of Ukraine "On the Legal Status of Missing Persons under Special Circumstances" has not yet been amended to reflect the change in these powers.
- 4.** In practice, there is no single state body or institution within the existing system that would take on the function of communicating with relatives of missing persons on the algorithm of actions, informing them about the functions of each body within the system and all available rights and benefits for families of missing persons under special circumstances. Without a clear understanding of the functions of each of the state bodies and institutions, relatives of missing persons submit the same requests to all or most of the bodies. This creates difficulties for the relatives and overloads the bodies with requests on issues that are not within their competence.
- 5.** Families say about the lack of awareness of the necessary documents, benefits and social guarantees provided to them under the law, as well as the lack of proper notification of the algorithm of their further actions when applying to the relevant authorities. Therefore, there is a need for both initial consultations and assistance during applications.
- 6.** The delay in criminal proceedings related to the disappearance of a person and the deterioration of communication between investigators and relatives of missing persons in wartime on the course of proceedings are primarily related to the significant workload of investigators, as cases are transferred under territorial jurisdiction to regions that are partially occupied and close to the combat zone.
- 7.** Families of missing persons under special circumstances and representatives of state authorities point to a significant difference in the list of guarantees and benefits provided for missing persons under special circumstances, depending on whether the person is a civilian or military. In particular, the families of civilians are not entitled to any other benefits, except for the possibility of receiving a survivor's pension.
- 8.** Additional support for the families of civilians missing under special circumstances is a separate issue. While for military personnel there is a clear provision for deferral of credit obligations, for civilians there is only a requirement not to interact with the relatives of the missing person. There are also no privileges or utility subsidies. This also applies, for example, to the postponement of mobilisation for close relatives of military personnel who went missing under special circumstances.

RECOMMENDATIONS:

→ 1. Identify a single or primary body that would become an entry point for all families. At this stage, relatives would receive advice on the further algorithm of actions, assistance in preparing the necessary documents, and explanations on the possibility of receiving certain benefits.

→ 2. Provide clarifications to the territorial bodies of the Pension Fund on the application of pension legislation in the context of the right to a survivor's pension.

→ 3. Develop and disseminate standardised forms of written requests to state authorities to facilitate communication both for relatives who must seek legal assistance in preparing documentation and for the authorities that will receive standard requests.

→ 4. Develop and amend the Law of Ukraine "On the Legal Status of Missing Persons under Special Circumstances" to reflect the actual distribution of powers between the bodies dealing with the issues of missing persons under special circumstances, as provided for in the Cabinet of Ministers Resolution "Issues of determining the powers of certain bodies in the field of compliance with international humanitarian law throughout Ukraine".

→ 5. Conduct an effective information campaign on the list of state bodies and institutions dealing with the issues of missing persons under special circumstances and the delineation of their powers.

→ 6. Consider introducing legislative amendments that provide for the continuation of the case at the place of application if such a change of jurisdiction is appropriate.

→ 7. Ensure an adequate level of support for the families of civilians missing under special circumstances, in particular, in terms of deferral of loan obligations and mobilisation, etc. Also, consider additional support through the introduction of subsidies for utilities, for housing owned by the missing person.

→ 8. Amend the CMU Resolution No. 560 of 16.05.2024, which approved the Procedure for the Conscription of Citizens for Military Service during Mobilisation and for a Special Period, by excluding from Annex No. 5 to the said Procedure a court decision on declaring a person missing under special circumstances.

Analytical report **“HOW UKRAINE SEARCHES FOR MISSING PERSONS AS A RESULT OF RUSSIAN AGGRESSION AND SUPPORTS THEIR FAMILIES”** was prepared based on the results of the analysis of Ukrainian legislation on persons missing under special circumstances and a series of interviews with relatives of the missing (civilians and military personnel), representatives of organisations that unite relatives of the missing, representatives of state bodies and institutions that deal with the issues of persons missing under special circumstances within their competence. The analytical report describes the practice of implementing the relevant legislation and offers recommendations for improving its provisions and their implementation.

Partnership Fund for a Resilient Ukraine (PFRU) is a donor programme funded by the governments of the United Kingdom, Estonia, Canada, the Netherlands, the United States of America, Finland, Switzerland, and Sweden. With the joint support of the Government of Ukraine and partner governments, the Fund implements projects in de-occupied and frontline communities, as well as at the national level. The goal of the PFRU is to strengthen the resilience of the Ukrainian government in the face of Russian aggression and enhance its ability to provide critical assistance to communities in cooperation with civil society, the media, and the private sector.

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More information about Human Rights Centre ZMINA and its activities:



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The Media Initiative for Human Rights (MIHR) is a Ukrainian NGO that combines journalism and human rights advocacy to expose Russia's war crimes in Ukraine and respond to human rights violations related to Russian aggression. MIHR investigates war crimes, torture, enforced disappearances, and violations of civilian and military rights in the context of war. The organisation also documents other human rights violations, monitors war-related trials, prepares analyses and recommendations, and engages in national and international advocacy to achieve justice and ensure human rights and freedoms.

More information about the activities of the Media Initiative for Human Rights:



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