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**Advocacy Brief:**  
**Barriers to Transgender People Leaving Ukraine During the War**

In times of war and other crises, lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) people who are already marginalized may face higher risks. In the case of Russia's unprovoked attack on Ukraine, LGBTIQ Ukrainians face the same hardships all Ukrainians are contending with, as well as additional challenges related to sexual orientation, gender identity and sex characteristics. Trans people are facing particular difficulties during the conflict, including finding it difficult or impossible to obtain hormone replacement therapy.<sup>1</sup> In addition, while many LGBTIQ people have not sought to leave the country, there is a special barrier for trans people who do want to leave. Ukrainian government officials are impeding trans people's freedom of movement because of restrictions put in place by the Ukrainian government to enforce its gender-based conscription policy. Both trans women and trans men report barriers to crossing the border, as OutRight and allied LGBTIQ organizations have documented.

This background briefing is based on firsthand research by OutRight Action International in Ukraine and neighboring countries in March 2022, and on information shared with OutRight by other Ukrainian and international organizations that are engaging directly with LGBTIQ people in Ukraine and those seeking refuge outside the country.<sup>2</sup>

**Background**

On February 24, President Volodymyr Zelensky declared martial law and [signed an order](#) prohibiting all men between the ages of 18 and 60 from leaving the country as part of a general military mobilization. Men in this age group are required to go to the local enlistment office (formally known as Territorial Centers for Staffing and Social Support) to register for the draft or obtain what is known as a "white ticket," a document certifying that they are exempt from or ineligible for military service for health reasons. Individuals who were granted a white ticket during peacetime are also required to return to the enlistment office to confirm they are still exempt from service.

<sup>1</sup> Insight, "The situation of Ukrainian trans people during the war," April 26, 2022, <https://www.insight-ukraine.org/en/blog/the-situation-of-ukrainian-trans-people-during-the-war/>, accessed April 27, 2022.

<sup>2</sup> OutRight, Gender Stream and RFSL are grateful to Transgender Europe (TGEU) for help with the legislative analysis.

Ukraine's [long-standing military regulations](#) rely on a medical classification that defines "transsexualism" as a psychiatric "disorder," which may disqualify an individual as "unfit for military service."<sup>3</sup> However, transgender women with male identity documents have reported difficulty accessing this exemption, which means that those who wish to cross the border have been unable to leave Ukraine. Transgender men have also reported that border guards have attempted to block them from leaving the country, even in cases in which their identity documents still classify them as women.

This paper takes no position on military conscription in Ukraine, nor on the gendered nature of conscription. We oppose treating transgender people as if they have a medical or psychiatric "disorder" that would disqualify them from any form of public service. We [support calls](#) made by Ukrainian LGBTIQ organizations before the war to reform Ukraine's procedure for gender recognition in order to bring it in line with international human rights standards.

**Given Ukraine's existing gender recognition procedure, and in the interest of upholding the rule of law, we believe Ukrainian officials should fairly and consistently follow the current rules governing Ukraine's conscription policy and allow transgender people to leave the country quickly and safely if they wish.**

Transgender people's challenges in the current war are compounded by the fact that Ukraine has long had onerous and degrading requirements for legal gender recognition. Until 2017, Ukraine required transgender people to undergo extended confinement in a psychiatric institution to change the gender marker on their official documents.<sup>4</sup> Although these provisions have been officially annulled, significant barriers remain, including a requirement to complete two years of psychiatric evaluation.<sup>5</sup> Transgender Ukrainians often have difficulty finding supportive and LGBTIQ-competent doctors, and have reported being denied a gender dysphoria diagnosis by providers who do not understand the diagnosis or have personal bias.

Trans women's difficulties in obtaining an F64.0 diagnosis from military medical commissions stem partly from the role of the military medical commissions in applying the regulations that determine fitness for military service. Ukraine's system for determining medical fitness is based on the World Health Organization's *International*

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<sup>3</sup> Ministry of Defense of Ukraine, order 14.08.2008 No 402, "On approval of the Regulations on military medical examination in the Armed Forces of Ukraine," Annex 1, Article 18, <https://zakon.rada.gov.ua/laws/show/z1109-08/print1487078353429940#Text> (accessed April 7, 2022).

<sup>4</sup> Human Rights Watch, "Allegation letter regarding the legal gender recognition procedure in Ukraine, as specified in Order No. 60 of the Ministry of Health of Ukraine," April 27, 2015, <https://www.hrw.org/news/2015/04/27/allegation-letter-regarding-legal-gender-recognition-procedure-ukraine-specified> (accessed April 11, 2022).

<sup>5</sup> Insight, "Trans-transition in Ukraine: (non) compliance with human rights standards," March 31, 2019, <https://www.insight-ukraine.org/uk/blog/trans-perekhid-v-ukraini-ne-vidpovidnist-standartam-prav-liudyny/> (accessed April 7, 2022).

*Classification of Diseases, Tenth Revision (ICD-10)*, which was implemented in 1994. The ICD-10 classifies “transsexualism” within the category of “mental and behavioral disorders” and gives it the diagnostic code F64.0.<sup>6</sup> (The new ICD-11, which the WHO rolled out in January, no longer classifies being transgender as a mental health disorder.) The Ministry of Defense categorizes an F64.0 diagnosis alongside several “mental and behavioral disorders” ranging from eating disorders to schizophrenia (F50-F69; F80-F99). If someone has one of these diagnoses, the regulations give military doctors the discretion to assess the “severity” of the condition. Only those with “pronounced” conditions (status A) are deemed “unfit for military service with exemption from military registration.”<sup>7</sup> Even if someone has an F64.0 diagnosis from a civilian psychiatrist – and only psychiatrists can issue this diagnosis in Ukraine – the diagnosis must be evaluated by a military psychiatrist, and the military commission has the final say on the individual’s suitability for service.<sup>8</sup>

A trans person’s experience at the military commission is often determined by the attitude of the officials they encounter. Rules are applied inconsistently and capriciously, and are sometimes changed on an ad hoc basis without official notice. Gender Stream, a Ukrainian LGBTIQ organization that had worked extensively from the beginning of the war to assist people through the registration process – including through direct talks with the local military commission – suddenly discovered local officials changing the procedure in early April, imposing an apparently new policy of not recognizing F64.0 diagnoses without supporting documentation from before the war. Potential conscripts were also no longer to directly seek evaluation by doctors at the military commission; instead, a military official now has the authority to approve or reject requests for a medical evaluation.<sup>9</sup>

Refusing to accept pre-war F64.0 diagnoses is especially unreasonable because it follows the coronavirus pandemic. In December 2020, Ukraine adopted measures to slow the spread of the virus, which included provisions limiting access to non-emergency medical care. This had the effect of making it nearly impossible for someone to get an appointment

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<sup>6</sup> World Health Organization, *The ICD-10 classification of mental and behavioural disorders: clinical descriptions and diagnostic guidelines*, Geneva: World Health Organization, 1992. <https://icd.who.int/browse10/2016/en#/F64.0.0> (accessed April 7, 2022). The ICD-11, which the WHO rolled out in January 2022 to replace the ICD-10, no longer classifies gender identity-related conditions to be a mental health disorder, replacing the diagnosis of “transsexualism” with the diagnosis of “gender incongruence” in a new section on “conditions related to sexual health,” but this has not yet been implemented in Ukraine. World Health Organization, *The ICD-11 classification of mental and behavioural disorders: clinical descriptions and diagnostic guidelines*, Geneva: World Health Organization, 2022, <https://icd.who.int/browse11/l-m/en#/http%3a%2f%2fid.who.int%2f%2fidentity%2f90875286> (accessed April 7, 2022).

<sup>7</sup> Ministry of Defense of Ukraine, order 14.08.2008 No 402, “On approval of the Regulations on military medical examination in the Armed Forces of Ukraine,” Annex 1, Article 18, <https://zakon.rada.gov.ua/laws/show/z1109-08/print1487078353429940#Text> (accessed April 7, 2022).

<sup>8</sup> Olha Poliakova, “I know you’ve been waiting a long time and here it is! Complete instructions for transgender people to cross the border,” Facebook, March 16, 2022, [https://m.facebook.com/story.php/?story\\_fbid=2037928519694913&id=100004333531798](https://m.facebook.com/story.php/?story_fbid=2037928519694913&id=100004333531798) (accessed April 7, 2022).

<sup>9</sup> Communications with Gender Stream, April 11 and 12, 2022.

with a psychiatrist to obtain an F64 diagnosis.<sup>10</sup> Two transgender Ukrainians interviewed by OutRight Action International reported they had tried to see a psychiatrist to get an F64.0 diagnosis and begin the process of legal gender recognition during the pandemic, but were unable to get an appointment.<sup>11</sup>

### Experiences of Transgender Ukrainians

While some transgender women have managed to get an F64.0 diagnosis and a white ticket, others report that military doctors have not believed they are transgender or have provided a different diagnosis that would not bar them from service. In at least three cases documented by OutRight, transgender women have been referred to a mental hospital to evaluate their status. One of these women, who presented documentation from an endocrinologist indicating that she had been on hormone replacement therapy for two years, reported being held at the mental hospital for four days before receiving only a cursory interview with a psychiatrist. She said the psychiatrist who interviewed her said he “did not have a high opinion of people like her,” asked if she believed in God, and repeatedly refused to call her by her female name.<sup>12</sup> He discharged her with a diagnosis of “personality disorder,” which did not disqualify her from service.

Even some transgender people with female documents or white tickets report that border guards inconsistently apply the rules for who is allowed to leave the country. Ukrainian LGBTIQ organizations have reported multiple cases of male-documented transgender people with white tickets who were turned back at the border and ordered to return to the military commission to assess whether their medical exemption had changed. (This problem also faces cisgender people with medical conditions or disabilities exempting them from service, given the Ukrainian government’s apparent interest in limiting exemptions in a time of war.) Trans women who attempt to cross the border without white tickets face risks of being summoned to the military enlistment office.

Transgender men with female documents reported to OutRight and other organizations that border guards turned them away or subjected them to degrading treatment. One transgender man with female identity documents reported that border guards who did not believe he was transgender forced him to remove his shirt. The fear of such an examination inhibits some trans people from attempting to leave Ukraine. Other transgender people report that border guards have subjected them to degrading comments or forced them to disclose their transgender status in front of other refugees waiting to cross.

## RECOMMENDATIONS

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<sup>10</sup> Legislative analysis by Transgender Europe, communication with OutRight, April 27, 2020, based on Resolution № 1236 "On Quarantine and Restrictive Anti-Epidemic Measures to Prevent the Spread of Acute Respiratory Disease COVID-19 Caused by SARS-CoV-2 Coronavirus in Ukraine," December 9, 2020, <https://zakon.rada.gov.ua/laws/show/1236-2020-%D0%BF>, accessed April 27, 2022.

<sup>11</sup> Interviews with two transgender women in Ukraine, names withheld, March, 2022.

<sup>12</sup> Phone interview with a transgender woman in Ukraine, name and location withheld, April 6, 2022.

- 1. The Ukrainian Ministry of Defense should issue a directive to military medical commissions reiterating that an F64.0 diagnosis exempts from military service. Additionally, given the difficulty of obtaining an F64.0 diagnosis even before the conflict, the Ministry of Defense should instruct military psychiatrists to treat individuals' own testimony of their transgender status as legitimate evidence in weighing an F64.0 diagnosis.**
- 2. The Ukrainian Ministry of Internal Affairs should prohibit border guards from conducting body searches or engaging in other degrading treatment of transgender people at the border.**
- 3. The Ukrainian Ministry of Internal Affairs should instruct border guards to allow people with white tickets obtained since the start of the war to exit the country without being ordered to return to military commission a second time.**