

DOI: 10.15276/EJ.01.2023.7
DOI: 10.5281/zenodo.7927345
UDC: 657.6:355.69
JEL: L62

INTERNAL CONTROL OF THE COST ESTIMATION PROCEDURE OF MOBILIZED WHEELED VEHICLES OF THE ENTERPRISE

ВНУТРІШНІЙ КОНТРОЛЬ ПРОЦЕДУРИ ОЦІНКИ ВАРТОСТІ МОБІЛІЗОВАНИХ КОЛІСНИХ ТРАНСПОРТНИХ ЗАСОБІВ ПІДПРИЄМСТВА

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Received 22.02.2023

Volchek R.M., Bolshakov S.I., Ivanov V.F., Samostrol S.V. Внутрішній контроль процедури оцінки вартості мобілізованих колісних транспортних засобів підприємства. Науково-методична стаття.

У статті визначено проблематику питань щодо дотримання законодавчих вимог при проведенні процедури мобілізації колісних транспортних засобів на користь збройних сил України. Наголошено про необхідність поточного контролю щодо дотримання процедури мобілізації, зазначено його ключові напрями та особливості, включаючи питання документування. Запропоновано форми робочих документів, які дозволять визначити ключові відхилення при проведенні процесу мобілізації колісних транспортних засобів та його документування. Особливо виділено питання проведення належної оцінки вартості мобілізованих колісних транспортних засобів. Доведено, що оцінка вартості колісних транспортних засобів на дату їх мобілізації повинна здійснюватися за ліквідаційною вартістю. Цей вид вартості згідно із законодавством про оцінку, треба трактувати як вартість вимушеного продажу. Розрахунок цієї бази оцінки повинен здійснюватися виходячи із настанов, які містяться у п.7.15 Наказу Міністерства юстиції України та Фонду державного майна України від 24.11.2003 року № 142/5/2092 «Про затвердження Методики товарознавчої експертизи та оцінки колісних транспортних засобів» із змінами від 24.05.2022 року № 2060/5/496.

Ключові слова: мобілізація, колісний транспортний засіб, оцінка, контроль, документування

Volchek R.M., Bolshakov S.I., Ivanov V.F., Samostrol S.V. Internal Control of the Procedure for Estimating the Cost of Mobilized Wheeled Vehicles of an Enterprise. Scientific and methodical article.

The article identifies the issues related to compliance with the legislative requirements during the mobilization of wheeled vehicles for the benefit of the Armed Forces of Ukraine. The authors emphasize the need for ongoing monitoring of compliance with the mobilization procedure, and identifies its key areas and features, including the issues of documentation. The authors propose forms of working documents, that will allow documenting the procedures for controlling the mobilization of wheeled vehicles. The issue of conducting a proper assessment of the value of mobilized wheeled vehicles is separately highlighted. The article proves that the valuation of wheeled vehicles as of the date of its mobilization should be carried out at the liquidation value. This type of value, according to the legislation on valuation, should be interpreted as the cost of forced sale. The calculation of this valuation base should be based on the guidelines contained in clause 7.15 of the Order of the Ministry of Justice of Ukraine and the State Property Fund of Ukraine dated 24.11.2003 № 142/5/2092 «About Approval of the Methodology for Commodity Expertise and Valuation of Wheeled Vehicles» as amended, dated 24.05.2022 No. 2060/5/496.

Keywords: mobilization, wheeled vehicle, assessment, control, documentation

The mobilization of wheeled vehicles in favor of the Armed Forces of Ukraine (hereinafter referred to as the «AFU») is currently necessary to counteract the military aggression of the Russian Federation. Meanwhile, the correct valuation of mobilized vehicles is an extremely important issue from the point of view of accounting and internal control of the said expropriation is correct valuation of mobilized wheeled vehicles. The complexity of such valuation lies in the fact that, on the one hand, there is the owner of the vehicle, who is entitled to reimbursement of the value of the mobilized vehicle in case of damage, as a result of hostilities, and on the other hand, the public authorities, which, according to the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property in the Legal Regime of Martial Law or State of

Emergency», dated 17. 05.2012, No. 4765-VI and amendments, dated 06.09.2022, No. 2561-IX [1], are obliged to reimburse the cost of a mobilized vehicle after the end of military operations on the territory of Ukraine. Thus, on the one hand, there is a legal entity or individual, who wants to use the reimbursed funds to purchase later on a vehicle, with similar characteristics, and on the other hand, there is the state, that will use budget funds to reimburse the cost of damaged transport means. Therefore, it is advisable to find out whether legislative mechanisms have been developed to ensure a transparent assessment of the value of a mobilized vehicles, and to adhere to the principles of prudence and the prevalence of substance over form, when analyzing a transaction and, accordingly, to organize effective control over the correctness of the transaction, the compliance of its documentation, and recording in accounting and financial statements of objective information as for this type of transaction.

Analysis of recent researches and publications

A critical and bibliographic review of publications devoted to the study of the procedure for mobilization of wheeled vehicles and other types of fixed assets, owned by individuals and legal entities shows, that currently, scholars and practitioners focus on the correctness of documenting this procedure, and the peculiarities of accounting and reflection in the financial statements of the procedure for alienation of mobilized property. Thus, S.I. Bolshakov [2] noted in 2014, that when transferring a wheeled vehicle to the anti-terrorist operation (ATO) zone, the legal entity and individual, who mobilized the vehicle must retain the following: an acceptance and transfer certificate (standard form OZ-1); a vehicle registration certificate; state license plates for the vehicle. When determining the value of a wheeled vehicle that has returned from the ATO zone, when reimbursing the value of material damage, caused to the said wheeled vehicle while in the ATO zone, its owner must be reimbursed for the cost of restoration repairs, spent on restoring the wheeled vehicle.

A. Momot and L. Bezkorovaina [3] study the issue of correct registration of the temporary transfer of vehicles and equipment to military formations during mobilization.

A. Khomyuk [4] investigates, how to account for the alienation of property in favor of the Armed Forces of Ukraine. The author notes, that if the vehicle was not evaluated and the date of mobilization was not determined, it is at least advisable to record its book value in the documents in order to receive compensation at least based on this amount. Considerable attention is paid to the accounting of compensation, in particular, it is emphasized, that it is advisable to find out, whether the compensation is of a contractual nature and, accordingly, whether the requirements of IFRS 15 «Revenue from Contracts with Customers» will apply to it (if the company keeps records and prepares financial statements in accordance with the requirements of International Financial Reporting Standards). Attention is paid to the issue of applying the discounting procedure in accounting, if the said compensation will be paid after the end of the legal regime of martial law.

Unsolved aspects of the problem

The problematic issues of our study are related to the lack or insufficiency of control over compliance with the mobilization procedure, including the issue of its documentation and, in particular, proper evaluation. The issue of applying the correct method of assessing the value of a wheeled vehicle as of the date of its mobilization; determining the subject of such assessment remains relevant and controversial.

The issues of legality and correctness of the procedure for assessing mobilized wheeled vehicles, methodological approaches to controlling this type of operation need to be specified.

The aim of the article is to identify the issues of the procedure for mobilization of wheeled vehicles under the legal regime of martial law or a state of emergency, and to provide recommendations for preventing possible violations by specifying: typical violations of the process of mobilization of wheeled vehicles; application of control procedures and their documentation; and an algorithm for assessing the value of a wheeled vehicle on the date of mobilization.

The main part

The procedure for mobilization of vehicles requires compliance with a number of key points, which, in turn, should ensure its transparency and take into account the interests of the parties involved, in particular, with regard to such issues as compensation for the value of the property to be seized. In order to understand the correctness of the assessment of the value of mobilized vehicles in favor of the AFU for military tasks, it is advisable, first of all, to characterize the term «expropriation of property», on the basis of which the mobilization of property of enterprises is carried out.

According to Art. 1 of the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property in the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended, dated 06.09.2022 No. 2561-IX [1], expropriation of property means depriving the owner of the right of ownership of individually determined property that is privately or communally owned and which becomes the property of the state for use under the legal regime of martial law or a state of emergency, subject to prior or subsequent full compensation of its value.

Since, according to the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amendments of 06.09.2022 No. 2561-IX [1], the owners of the property mobilized from enterprises (organizations) lose ownership of it and have the right to return this property after the end of hostilities on the

territory of Ukraine or full reimbursement of its value, then enterprises - former owners of mobilized property - may identify this transaction in accounting and financial statements as the sale of property with a long deferred payment term (at least as of the date of preparation of the annual financial statements), and accordingly, recognize it as a long-term receivable. The judgment is based on the fact that the legislation stipulates that the period of reimbursement of mobilized property may be within five years from the end of military operations, except for the situation when the cost will be reimbursed within 12 months.

The internal control system of both participants in the process (enterprise and the AFU) should ensure minimization of credit risk in their activities. Since the state is one of the parties to such an operation, an important task of control is to prevent the possibility of causing losses to the state budget of Ukraine, through attempts to overstate the compensation for the value of mobilized property. That is, the procedure for mobilizing the property of enterprises under certain circumstances may be associated with the risk of fraud due to possible manipulation of the property valuation base (selection of an improper type of value at which the transfer of rights to the property of enterprises takes place) and, accordingly, causing losses to the state budget of Ukraine through overstatement of compensation for the value of the mobilized property.

On the one hand, all these types of risks should be mitigated by a correctly conducted assessment of the value of the mobilized property of the enterprise in accordance with the applicable law (through the involvement of an independent appraiser or forensic expert (a specialist in the relevant field of knowledge), and on the other hand, the internal control system at the enterprise that has mobilized the said property should respond to «deviations in the methodology of such assessment, if any». The procedure for mobilizing property concerns the correctness of accounting and reporting by both parties: the owner – the expropriation of property, and the state organization (military unit), whose representatives will use such property – taxation and use. For both parties to this transaction, it is important to document the fact of property alienation by correctly executing the relevant document, in particular, the act of compulsory seizure of property. Therefore, in order to comply with the requirements of documentation, we consider it expedient to investigate the completeness and correctness of filling in the content of this primary document in accordance with the existing regulatory requirements.

In order to understand the content of the act on the compulsory seizure of property in favor of the AFU, we will describe the requirements for its preparation contained in the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended, dated 06.09.2022 No. 2561-IX [1]. In particular, the transfer and acceptance certificate must contain:

1. the name of the local council and the military command or body responsible for implementing the measures of the legal regime of the state of emergency;
2. full name, location and identification code of the legal entity to which the property was assigned;
3. information about the document establishing the ownership of the property (if any);
4. a description of the property sufficient for its identification, including for real estate –location, for movable property (land, water and air vehicles) –information on the vehicle registration number, make, model, chassis number, year of manufacture and other registration data.

We draw attention to the need to attach to the transfer and acceptance certificate a document containing a conclusion on the value of the property as of the date of its valuation [1].

Primary documents must have the following mandatory details: name of the enterprise, institution on whose behalf the document is drawn up, name of the document (form), date of drawing up, content and scope of the business transaction, unit of measurement of the business transaction (in monetary and, if possible, in kind), positions and names of persons responsible for the business transaction and the correctness of its execution, personal signature or other data that allow identifying the person who participated in the business transaction [5].

The analysis of the regulatory requirements for the preparation of the act of compulsory seizure, on the basis of which the mobilized property of enterprises is recorded on the balance sheet of the military unit shows, that both regulations provide for the availability of information on the value resulting from the assessment of the value of the mobilized property, which should be indicated in this primary document. This «trivial conclusion» may seem obvious only at first glance, since the fact is that by law the only persons allowed to carry out the procedure of mobilization of enterprise property are recruitment and social support centers (hereinafter referred to as «RSC and SS»), commanders of military units if the property is mobilized in the combat zone, or with the permission of local authorities (if the property is not mobilized in the combat zone). In practice, not only the AFU, but also the police, the Security Service of Ukraine, the National Guard of Ukraine, the State Border Guard Service, the Prosecutor's Office, and others, i.e. services that are not listed and, accordingly, are not formally entitled to do so under the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property in the Legal Regime of Martial Law or State of Emergency» dated 17.05.2012 No. 4765-VI and amended, dated 06.09.2022 No. 2561-IX [1]. Thus, the question arises whether the mobilization of property by these services can be considered legal.

In order to develop tools, that should be used in the internal control of operations related to mobilization of enterprise property, it is advisable to characterize the essence of these operations, both from the legal side and from the side of documentation and accounting. Both of these dimensions of the analysis of operations related to the mobilization of enterprise property should be taken into account when implementing internal control measures aimed to reduce the risks of violation of legal requirements.

On the legal side, the mechanism of delegation of authority to the proper persons who directly carry out the assessment of mobilized property is extremely controversial and imperfect. The uncertainty we have identified in this regard creates a risk that the results of the assessment of mobilized property will be recognized as questionable.

The imperfection of the valuation mechanism is relevant in connection with the possibility of questioning the results of such valuation in case of the need for real compensation for the value of mobilized property, and this is likely to be most evident after the end of hostilities. The imperfection of the valuation mechanism is also manifested in the issue of determining (electing) a person, who may be authorized to assess the value of mobilized property and actually engage in the valuation process. The problematic nature of this issue is confirmed by the fact, that there are a sufficient number of cases when the evaluation procedure was violated and independent evaluation specialists were not involved.

When documenting the transaction, the acts of compulsory seizure of property indicate the value, which at best corresponds to the accounting data of the owner. There are also cases, when the documents use terms for determining the value of the mobilized property that do not meet the standards of accounting and independent evaluation (for example, the term «the real value of the object is...»). Ultimately, the poor quality of documentation and determination of value indicators in the primary documentation leads to the fact, that accountants of military units cannot timely record mobilized property, correctly calculate depreciation, justify the write-off of fuel used to operate mobilized wheeled vehicles, etc.

The problematic of the topic is related to the actual non-compliance with the requirements of the current legislation, namely, the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amendments of 06.09.2022 No. 2561-IX [1] regarding the mandatory implementation of the procedures for the valuation of mobilized property of enterprises.

According to Art. 8 of the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI [1], the valuation of mobilized property of enterprises should be carried out as follows:

1. valuation of property subjected to compulsory alienation is carried out in accordance with the procedure established by the legislation on the valuation of property, property rights and professional valuation activities;
2. in case of impossibility to involve business entities in the valuation of property, such valuation shall be carried out by state authorities or local self-government bodies in agreement with the owner of the property. In case of refusal or absence of the property owner, these bodies have the right to conduct such an assessment independently;
3. valuation of property, according to which the previous owner was reimbursed for the value of the expropriated property, may be appealed in court [1].

The next important issue is compliance with the requirements for the involvement of valuation entities, i.e. those persons, who have the right under the current legislation to be involved in the valuation procedure (involvement of an independent appraiser in accordance with Article 8 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activities in Ukraine» dated 12.07.2001 No. 2658-III as amended, dated 10.10.2022 No. 2518-IX [6]).

It should be noted that, on the one hand, the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended, dated 06.09.2022 No. 2561-IX [1] clearly states, that the valuation of the mobilized property of enterprises must be made by an independent appraiser. In case of impossibility to engage such an appraiser, public authorities or local self-government bodies, in agreement with the property owner or in the absence of the property owner, shall conduct such an appraisal independently.

In our opinion, during the mobilization of the property of enterprises located in the combat zone, there may be circumstances that significantly complicate both the legality of the valuation itself and the credibility of its results. For example, according to Art. 10 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activities in Ukraine» dated July 12, 2001 No. 2658-III as amended on October 10, 2022 No. 2518-IX [6], property valuation is carried out on the basis of an agreement between the subject of valuation activities and the customer of the valuation or on the basis of a court order appointing a relevant expert examination on property valuation.

In cases specified by the regulatory legal acts as for property valuation, approved by the Cabinet of Ministers of Ukraine, the subjects of valuation activities – state authorities and local self-government bodies – carry out property valuation independently on the basis of an order of the head. At the same time, if the legislation provides for the obligation to conduct an independent property valuation, state authorities and local self-government bodies act as customers for such property valuation by concluding contracts with valuation entities – business entities determined on a competitive basis in accordance with the procedure established by law [6].

The legal analysis of these provisions shows, that in practice, the situation is somewhat different: if the property owner is absent at the time of mobilization or does not want to enter into an agreement with the appraiser, then according to the Law of Ukraine «About Valuation of Property, Property Rights and Professional Appraisal Activity in Ukraine», such an appraisal may be invalidated. In addition, even when public authorities

independently enter into an agreement with an independent appraiser, the question arises as to who will pay for the appraiser's services in the event of a enterprise's property mobilization.

The payment for the appraiser's services is stipulated by Art. 11 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Appraisal Activity in Ukraine» dated July 12, 2001 No. 2658-III as amended on October 10, 2022 No. 2518-IX [6]: «an agreement for property valuation shall be concluded in writing and may be bilateral or multilateral. When concluding a multilateral agreement, in addition to the customer of the appraisal, the payer may be a party to the agreement if the services of the appraiser are paid by a person other than the customer» [6].

If the mobilization of property is carried out by representatives of the TCC and SS or directly on instructions from the commander of the military unit, these persons may not have the money to pay for the services of an appraiser. Therefore, an independent appraisal of mobilized property may either be significantly delayed or not take place at all. Under such conditions, and as a result of accelerating the transfer of property to the needs of the Armed Forces, the act of compulsory seizure either contains the residual value of the property taken from the accounting registers (if available) or does not contain the results of the appraisal at all. The absence of the amount in the primary document during the control is regarded as the absence of an important document requisite, and is a violation of the procedure for its execution. In the future, such primary documents may be recognized as invalid (i.e., not giving the right to conduct an accounting transaction) and, on their basis, the mobilized property may not be recorded on the balance sheet of the military unit and, accordingly, the amount of compensation to the property owner may be questioned.

The fact is, that in the absence of martial law, it is common practice for accountants to deal with primary accounting documents and they clearly control the correctness of their completion, and Regulation 88 also ensures transparency in the preparation, recognition and movement of these primary documents. During the period of military operations, persons who do not have appropriate documentation skills are involved in the preparation of primary documents, which affects the quality of their execution.

In addition, there is an urgent question of who makes the assessment of mobilized property, when public authorities or representatives of the TCC and SS are authorized to make such an assessment independently.

Accordingly, when the act of compulsory seizure indicates the residual (book) value of the mobilized property, the results of the work of the appraiser are clearly visible, and it is unlikely, that the controlling authorities will further recognize (based on professional skepticism), that it is on the basis of this type of value, that the state should reimburse the value of the mobilized property to its owner. That is, there is a risk of overspending public funds, since the residual value does not take into account the market conditions.

We believe, that the action that will allow to level the contradictory aspects in the organizational regulation of the procedure for delegation of authority during the valuation of mobilized property is to amend the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17. 05.2012 No. 4765-VI and amended on 06.09.2022 No. 2561-IX [1], to entrust the procedure for the valuation of mobilized property of individuals and legal entities to a forensic expert if it is impossible to engage an independent appraiser. The fact is that a forensic expert can be either a representative of the state expert service or a private person. Since forensic experts of state institutions must carry out exclusively forensic medical, psychiatric and criminalistic examinations. Economic expertise is not included in this list. Also, the main issue to be resolved in this case is that both a forensic expert of a state expert institution and a private forensic expert may, based on the provisions of the Law on Forensic Expertise, perform such an assessment free of charge. The quality of such an evaluation will not be «worse» than the results of an evaluation performed by an independent appraiser, and the main thing is that the requirements for the results of the evaluation of both an independent appraiser and a forensic expert will be the same. This conclusion follows from the analysis of a number of provisions of several legislative acts.

Firstly, according to Art. 8 «Restrictions concerning Property Valuation» of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activities in Ukraine» dated 12.07.2001 No. 2658-III as amended, dated 10.10.2022 No. 2518-IX [6], the exclusive right to conduct valuation by state authorities and local self-government bodies or by appraisers working for state authorities and local self-government bodies cannot be expected, except in cases provided for by law [6].

It also raises the question of whether company accountants can independently assess the fair value of mobilized property. The answer to this question, in our opinion, cannot be quite unambiguous.

Meanwhile, when it comes to valuing inventories, long-term debt, other non-current tangible assets and fixed assets with a short useful life, and these accounting items are not material in terms of value from the point of view of its reflection in the financial statements of enterprises. Therefore, the company's accounting policy regulation may contain provisions according to which the company's inventory commission may value objects with a value of, for example, up to UAH 20,000 UAH (the value criterion for fixed assets in the accounting of tax liabilities). Other accounting items that will be settled in cash (receivables) may also be evaluated, and these items should also not be material in value according to their reflection in the financial statements of the company (meaning materiality for each specific item in the company's financial statements. The materiality criteria for the purposes of reflecting accounting items in the financial statements can be selected using the guidelines of the Order of the Ministry of Finance of Ukraine «About Approval of Methodological Recommendations on the

Accounting Policy of the Enterprise and Amendments to Certain Orders of the Ministry of Finance of Ukraine» No. 635 dated 27.06.2013, as amended as of 14.01.2020.

Accordingly, it is advisable to entrust the valuation of long-lived and significant fixed assets to forensic experts and independent appraisers (for information on mandatory cases of involving an independent appraiser, see Article 7 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Appraisal Activity in Ukraine» of 12.07.2001 No. 2658-III as amended on 10.10.2022 No. 2518-IX [6]).

The fact, that the results of the assessment of a forensic expert in the conclusion of an expert study and information as for the type of value of mobilized property contained in the assessment report prepared by an independent appraiser, are subject to the same requirements for the quality of the data submitted is legally justified by the norm of Art. 4 of the Law of Ukraine «About Assessment of Property, Property Rights and Professional Appraisal Activity in Ukraine» dated 12. 07.2001 No. 2658-III as amended as of 10.10.2022 No. 2518-IX [6], which states, that «activities of forensic experts related to the valuation of property are carried out under the conditions and in the manner, prescribed by the Law of Ukraine «About Forensic Expertise» No. 4038a-XII of 25.02.1994 as amended as of 01.01.2023 No. 2710-IX, 2716-IX [7], taking into account the peculiarities, determined by this Law regarding the methodological regulation of the valuation of this property. Other provisions of this Law do not apply to forensic experts» [6].

Similar information as for the requirements for the evaluation results to be contained in the expert report is available in clause 1.5 of the Order of the Ministry of Justice of Ukraine «About Approval of the Instruction on the Appointment and Conduct of Forensic Examinations and Expert Studies and Scientific and Methodological Recommendations on the Preparation and Appointment of Forensic Examinations and Expert Studies» No. 53/5 of 08.10.1998, as amended as of 15.08.2022 No. 3430/5 [8]. Thus, this clause contains the following provision: «Expert examinations, expert studies on property valuation are carried out under the conditions and in the manner prescribed by the Law of Ukraine «About Forensic Expertise», taking into account the peculiarities determined by the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activities in Ukraine», regarding the methodological regulation of property valuation» [8]. Paragraph 1.4 of the said regulatory document [8] indicates, that the determination of the method of conducting an examination (the choice of certain methods (research methods)) is within the competence of the expert [8].

From the point of view of accounting and control, there are somewhat different issues aimed at avoiding the risk of fraud and credit risk for enterprises. In particular, the main issue in terms of assessing the value of the mobilized property of enterprises, is the choice of the valuation basis, that will determine the fair value of such an object. From the perspective of internal control, the primary issue is how the value of the mobilized property is determined, and whether it meets the requirements of national or international accounting and reporting standards.

Since professional judgment will be applied in determining the fair value of the mobilized property, it is necessary to find out, how verifiable the unobservable data are and the validity of the specific valuation methods used by the forensic expert or independent appraiser. In order to answer these questions, we believe, that it is advisable at first to establish what type of value is specified by law for use in operations to determine the value of mobilized property of enterprises and individuals.

At the second stage of the analysis, we will determine how the methodology for calculating the legally established type of value of the mobilized property of enterprises meets the requirements for disclosing information about the fair value of the objects of valuation in the notes to the financial statements of, based on the requirements of accounting standards.

As we have previously noted, according to Article 8 of the Law of Ukraine «About the Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended on 06.09.2022 No. 2561-IX [1], the valuation of mobilized property should be carried out on the basis of the rules contained in the legislation on the valuation of property, property rights and professional valuation activities. Accordingly, in order to make the valuation legitimate, it is necessary to refer to the provisions of at least three regulatory acts. According to clause 33 of the Resolution of the Cabinet of Ministers of Ukraine No. 1440 of September 10, 2003, National Standard 1 «General Principles of Property and Property Rights Valuation» as amended, dated August 09, 2022 No. 886 (886-2022-p) [9], property valuation for accounting purposes is carried out based on the following types of value:

- the fair value of an asset can be determined as market value or residual replacement (reproduction) cost;
- the liquidation value of an asset in accordance with the provisions (standards) of accounting is equal to its liquidation value in accordance with this Standard [9];
- surplus assets are valued based on the principle of their most efficient use using such a valuation basis as market value or liquidation value, subject to the relevant conditions for their determination [9].

The analysis of this clause shows that, unfortunately, it does not take into account the conditions for the alienation of assets in the presence of martial law. Obviously, the situation is as follows: the state authorities have indicated that an independent appraiser should appraise mobilized property in accordance with the requirements of the appraisal legislation. The appraiser or forensic expert will refer to the requirements of the above paragraph 33 of the Resolution of the Cabinet of Ministers of Ukraine dated 10.09.2003 No. 1440 National Standard 1 «General Principles of Property and Property Rights Valuation» as amended as of 09.08.2022 No. 886 (886-2022-p) [9]. Meanwhile, our professional judgment forms a somewhat different

opinion as for the use of the type of value for the valuation of mobilized property, than the market or residual replacement (reproduction) value. If we carefully examine the provisions of the Resolution of the Cabinet of Ministers of Ukraine dated 10.09.2003 No. 1440 National Standard 1 «General Principles of Property and Property Rights Valuation» as amended as of 09.08.2022 No. 886 (886-2022-p) [9] (hereinafter referred to as the Standard), the researcher is faced with the question: what types of value should be used in the valuation of mobilized property of legal entities and individuals - market value or non-market value. If we analyze all the provisions of the Standard [9] from this angle, and not only those contained in clause 33, we can observe the following logic of applying the appropriate type of property valuation value depending on the purposes of the valuation:

- clause 11 of the Standard [9] states, that if the regulatory legal acts on property valuation, the contract for property valuation or the court decision do not specify the type of value to be determined as a result of the valuation, the market value is determined;
- based on clauses 12 and 13 of the Standard [9], it is clear, that the use of market value as the basis for valuation when concluding a contract for property valuation is possible provided, that the agreement on the basis of which the valuation is carried out complies with the economic meaning of the term «market value». The terms of such an agreement should not provide for any additional restrictions or requirements, that affect the future economic benefit from the use of the appraised property by the buyer. To determine the market value, the most efficient use.

Comparing the above provisions of the Standard [9] as for use of market value for the valuation of mobilized property of enterprises with the conditions of business of enterprises under martial law in Ukraine, we see, that the requirements for «market conditions» during the expropriation of property for the needs of the Armed Forces are not met. The same conclusion follows from the analysis of the economic essence of the term «market value of the object of valuation» contained in the said Standard [9]. Thus, clause 3 of this Standard [9] states, that the market value is the value, for which the object of valuation can be alienated in the market of similar property on the date of valuation under a transaction concluded between the buyer and the seller, after marketing, provided, that each party acted with knowledge of the matter, reasonably and without coercion [9].

Also, it is advisable to pay attention to clause 17 of the Standard [9], which states, that the appraiser must necessarily indicate in the property valuation report, if he determines the market value of the object of valuation, the inclusion or exclusion of the amount of value added tax.

The main, in our opinion, incomparable aspects between the assessment of mobilized property at market value and martial law are, that the use of market value implies:

1. no forced alienation of property;
2. it automatically follows from the first statement that the exposure period (the period during which the object of valuation can be put up for sale at the highest price) under conditions of compulsory alienation is much shorter, than it would be when using the market value as the basis for valuation of the asset;
3. use of market value as a basis for valuation implies the existence of an active market, namely, similar transactions under which similar property is purchased or sold and these transactions, have common features with the transaction for which the valuation was made.

Critically assessing the existence of the above conditions as a basis for using the market value as the basis for the valuation of mobilized property, we note that:

- the fact itself of mobilization is a forced alienation of property and, accordingly, the owner's permission is not required for its implementation. Thus, the condition of absence of coercion in the transaction is not met;
- there is no active market and no such agreements under which property is alienated a priori;
- it is inadmissible to apply the principle of the most efficient use to the procedure of alienation of property for the needs of the AFU.

Thus, we have proved, that the use of market value as a basis for the valuation of mobilized property of enterprises and individuals is incorrect, since the conditions for its application are not met in accordance with the requirements of the Standard [9]. Therefore, it is logical to assume that in order to correctly assess the mobilized property for the needs of the AFU, it is advisable to use a non-market value, namely liquidation value.

The economic interpretation of this non-market value according to national valuation standards differs from the traditional accounting perception. Since the state authorities in determining the value of mobilized property of enterprises and individuals have provided legislative acts, that regulate the procedures for property valuation by independent appraisers, we will present the differences in the interpretation of this type of value from the standpoint of valuation and accounting standards (Table 1).

Table 1. Approaches to the definition of the term «liquidation value of an object of valuation»

According to clause 3 of National Standard 1 «General Principles of Property and Property Rights Valuation»	According to clause 4 of the National Accounting Standard 7 «Property, Plant and Equipment»
the value, that can be obtained if the object of valuation is sold within a period, that is significantly shorter, than the period of exposure of similar property, during which it can be sold at a price equal to the market value	the amount of funds or the value of other assets that the company expects to receive from the sale (liquidation) of non-current assets after the end of its useful life (operation), less expenses related to the sale (liquidation)

Source: compiled by authors on materials [5, 6]

The analysis of the data in Table 1 shows that the liquidation value in accordance with the norms of the National Valuation Standard 1 [9] should be understood as the cost of forced sale. And this type of value most closely corresponds to the event of alienation of property of enterprises and individuals for the needs of the AFU. Also, indirect evidence that this type of value is recognized by the state for the purposes of property alienation is, that according to paragraphs 20 and 21 of the Standard [9], non-market types of value, as the basis of valuation, are determined using methods and valuation procedures based on the results of the analysis of the utility or purpose of the object of valuation, as well as when studying the impact of the conditions of use or method of alienation of the object of valuation. To determine these types of values, information about similar property is used to the extent that it meets the requirements for a particular non-market value. Non-market values are mainly determined on the basis of information about, that were concluded with conditions and restrictions similar to the purpose for which the valuation is carried out [9].

We believe, that the use of such a non-market type of value as the residual value of replacement or reproduction of the object of valuation for the purposes of alienation of property of enterprises and individuals is not correct in accordance with the purposes of valuation, since this type of value is more applicable when determining the value of damage caused to the property owner.

We consider it appropriate to characterize these types of value.

Replacement cost – determined at the day of valuation the current cost of the cost of expenses for creating (acquiring) of a new object, similar to the object of valuation, which can be an equivalent replacement [9].

Reproduction cost is the current cost of the expenses for creating (acquiring) in current conditions of a new object, identical to the object of valuation [9].

Residual replacement (reproduction) cost – the cost of replacement (reproduction) of the object of valuation minus all types of depreciation (for real estate – taking into account the market value of the land plot in its existing use (rights related to the land plot) [9].

Even though these types of value, as well as the liquidation value, do not take into account the principle of the most efficient use (when the use of property is legally permitted in the appropriate manner, it is economically most profitable and legally possible), at the time of mobilization of the fixed asset, it is advisable to take into account first of all the current state of the fixed asset and the presence of coercion, so these two conditions can be most successfully carried out by using the liquidation value rather than the residual value of replacement or reimbursement.

Summarizing the above, it can be seen that the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012, No. 4765-VI and amendments of 06.09.2022 No. 2561-IX [1] states, that the valuation of mobilized property to meet the needs of the AFU, should be carried out in accordance with the requirements of the legislative acts, regulating the implementation of valuation activities in Ukraine, in particular in accordance with the requirements of the Resolution of the Cabinet of Ministers of Ukraine of 10.09.2003 No. 1440 National Standard 1 «General Principles of Valuation of Property and Property Rights» as amended as of 09.08.2022 No. 886 (886-2022-p) [9].

In this regulatory document, according to paragraphs 3, 12, 13, 20, 21, it is stated, that during the mobilization of wheeled vehicles of enterprises and individuals, it is advisable to evaluate such fixed assets at liquidation value. Meanwhile, a quite logical question arises: how do the state authorities see the calculation of this type of value, since the national valuation standards contain only general guidelines for the implementation of valuation activities. The answer to this question, in our opinion, can be found in clause 7.15 of the Order of the Ministry of Justice of Ukraine and the State Property Fund of Ukraine dated 24.11.2003 No. 142/5/2092 «About Approval of the Methodology for Commodity Expertise and Valuation of Wheeled Vehicles» as amended on 24.05.2022 No. 2060/5/496 [10] (hereinafter - the Methodology).

To further prove that the essence of the procedure for mobilizing property, in particular, wheeled vehicles, involves their valuation at liquidation value, the calculation of which is contained in the Methodology [10], we once again cite some provisions of the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property in the Legal Regime of Martial Law or a State of Emergency» of 17.05.2012 No. 4765-VI and amended on 06.09.2022 No. 2561-IX [1]. As already noted, according to Art. 1 of this Law [1], expropriation of property is the deprivation of the owner of the right of ownership of individually determined property that is privately or communally owned and which becomes the property of the state for use under the legal regime of martial law or a state of emergency, subject to prior or subsequent full compensation of its value [1].

Accordingly, the procedure of mobilization of wheeled vehicles (hereinafter referred to as «WV») can be identified with the forced sale. And according to clause 7.15 of the Methodology [10], the liquidation value of a wheeled vehicle ($C_{\text{Л}}$) and its components is due to the limited period of their sale as a result of a forced sale and is determined by the following formula:

$$C_{\text{Л}} = C \times K_{\text{Л}}, \quad (1)$$

where $C_{\text{Л}}$ – liquidation value of the vehicle,
 C – market value of the vehicle,
 $K_{\text{Л}}$ – liquidation coefficient.

This coefficient takes into account the following circumstances: limitations in the organization of marketing research, the implementation of a forced sale in a short time and the lack of pre-sale preparation of the vehicle.

The liquidation value does not take into account the costs that accompany the sale, including commission fees [10]. And the value of the liquidation ratio varies from 0.8...0.95 [10]. The exact value of the liquidation ratio is determined by the expert based on his or her own professional judgment. For greater clarity, we will show the procedure for selecting the valuation basis for determining the value of mobilized property, in particular, wheeled vehicles, in accordance with the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» [1] (Fig. 1).

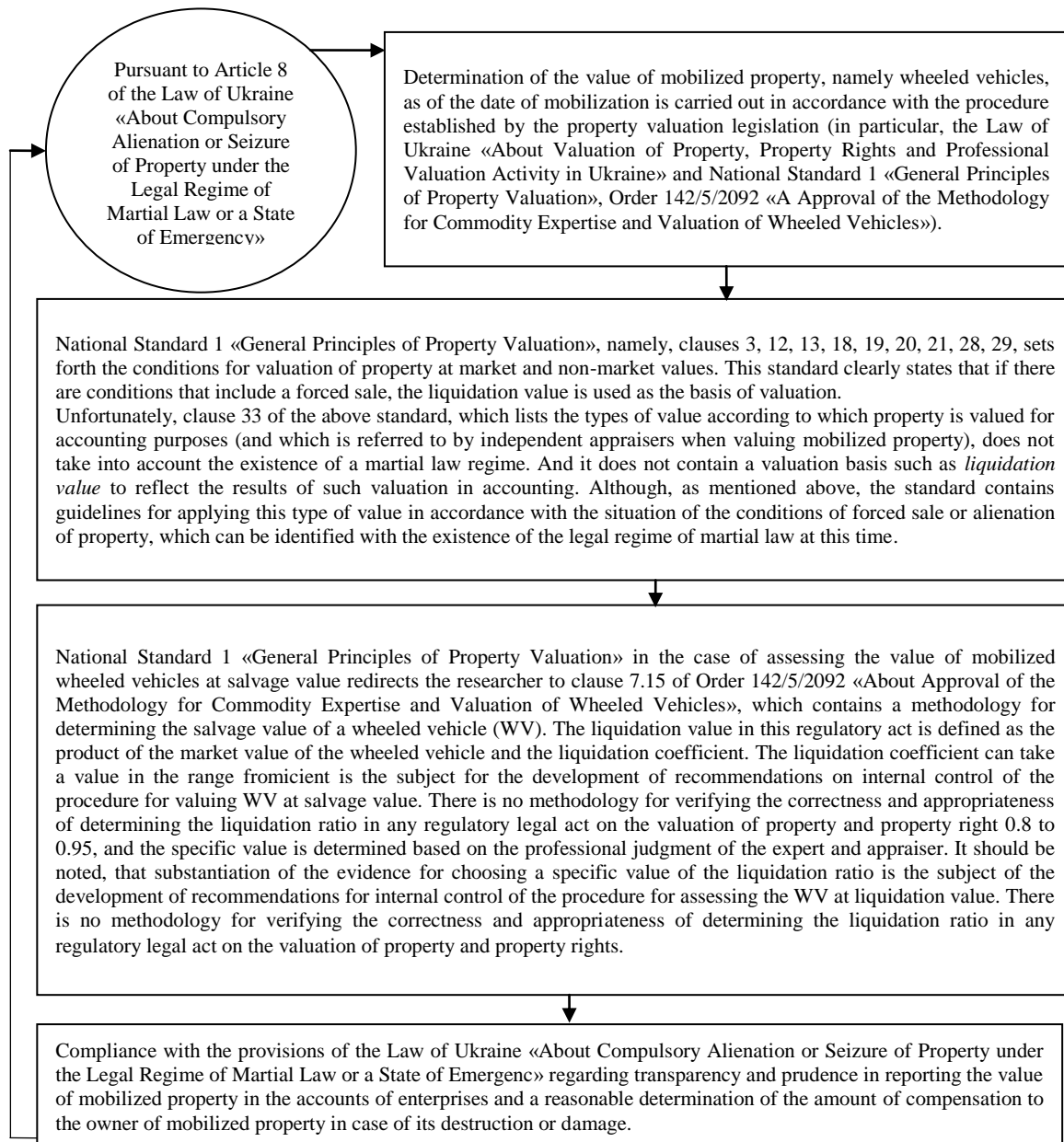


Figure. 1. Structural and logical diagram of the procedure for the valuation of mobilized wheeled vehicles in accordance with the requirements of the law

Source: compiled by authors on materials [1, 6, 9, 10]

As we have noted, an extremely relevant debatable issue in determining the salvage value of mobilized wheeled vehicles is the justification by the expert or appraiser for choosing a specific value of the salvage ratio from the range of 0.8 to 0.95. We consider it appropriate to note, that the choice of a specific value of this coefficient should be based on the results of the technical examination of each specific wheeled vehicle. According to the result, which will be contained in the act of technical condition of mobilized property, it is possible to use the scale of expert assessments to determine the physical deterioration of a wheeled vehicle based on external inspection (Table 2).

Table 2. Scale of expert assessments for determining physical depreciation

Condition of the equipment	Characteristics of physical condition	Depreciation, %
new	New equipment installed and not yet in use	0 5
very good	Used equipment that has been completely refurbished or reconditioned and is in good condition	10 15
good	Used equipment that has been completely refurbished or reconditioned and is in good condition	20 25 30 35
satisfactory	Used equipment that requires minor repairs or replacement of individual small parts, such as bearings, bushings, etc.	40 45 50 55 60
conditionally suitable	Equipment that has been in use and is suitable for further use, but requires significant repair or replacement of major parts, such as the engine or other critical components	65 70 75 80
unsatisfactory	Used equipment in need of major repairs, such as replacement of operating parts of major units	85 90
unusable or scrap	Equipment for which there are no reasonably foreseeable prospects for sale, other than for the value of the main materials that can be extracted from it	97,5 100

Source: compiled by authors on materials [11]

Since this table is based on the results of an external expert review, the researcher can choose a specific value for the salvage factor based on the results of the technical examination as follows. If the wheeled vehicle is new, the market value determined on the date of mobilization is multiplied by a salvage value of 0.95 (according to the table of expert assessments, the value of physical wear and tear is 5%). If the condition of the wheeled vehicle is recognized as «very good» – i.e., it was in use, fully repaired or reconstructed, in good condition, then the liquidation factor will be equal to 0.88 $((0.8 + 0.95)/2)$. If the mobilized wheeled vehicle is recognized as «in satisfactory condition», i.e., it was in use and requires minor repairs or replacement of individual small parts, such as bearings, bushings, etc., its market value as of the date of mobilization, determined according to the calculations of an expert or appraiser, should be multiplied by the liquidation coefficient of 0.8. It should be noted, that wheeled vehicles that are in conditionally suitable and unsatisfactory condition according to the classification given in Table 2 are not considered in this report. 2, we do not consider in this article, because, first, we believe that there is no point in mobilizing these wheeled vehicles, as they are not in a good enough technical condition (according to the statements of military unit commanders, such vehicles were also mobilized in case of emergency); second, a liquidation factor of 0.8 will still be applied to the market value of such wheeled vehicles. This value of the liquidation coefficient is the lower limit of its range of values according to the Methodology [10].

After we have determined the legislatively agreed mechanism for selecting the valuation basis for mobilized wheeled vehicles as of the date of their alienation, we will identify the typical mistakes, that were made during the mobilization of property (Table 3).

The classic tasks of internal control, such as: ensuring the safety of assets; preventing and detecting fraud and illegal acts; ensuring the completeness and correctness of accounting information are appropriate and taken into account when checking the correctness of the procedure for the valuation of a mobilized wheeled vehicle. Accordingly, questions arise to determine whether the valuation of a mobilized wheeled vehicle is reliable, whether the liquidation value (cost of forced sale) is not overstated during the alienation of the said property, whether the value of the mobilized vehicle is correctly reflected in the accounting and financial statements of the owner of the mobilized vehicle and whether the economically feasible amount of compensation for the value, that he is entitled to receive is recorded.

Thus, we will identify the following possible violations, which, in our opinion, are related to the control of the property alienation transaction: violation of the seizure procedure itself, including legal issues of legality, expediency of the transaction and its legality; violation of the rules of documentation; violation of the rules of valuation (involvement of a valuation specialist and validity of application of a particular valuation method); correctness of the transaction in accounting and reporting, etc.

It should be noted, that the accounting department of a military unit that uses a mobilized wheeled vehicle will, taking into account the principle of prudence, record the said wheeled vehicle on the balance sheet of this military unit, and will be able to correctly calculate depreciation on it and economically justify the use of fuel for performing military tasks with this vehicle. The accounting department of a military unit, based on professional skepticism about the data on the estimated (liquidation) value of a mobilized wheeled vehicle, may, without any doubt about manipulation of the fair value (using another type of value –market or residual value –instead of liquidation value) or the presence of errors or invalidation of the primary document, record it on the balance sheet, thereby recording both the actual availability of mobilized property and the documents.

Table 3. Typical violations of documentation in acts of compulsory seizure of mobilized wheeled vehicles and production stocks

The essence of a typical violation	Regulatory documents whose requirements were violated
<p>1. The act of acceptance and transfer of vehicles and equipment contained only the book (residual) value of the mobilized vehicle, and no data on the value at which the vehicle was valued on the date of its mobilization, and did not indicate the name of the appraiser who was to carry out the said valuation.</p> <p>According to the accounting certificate, the original cost of the wheeled vehicle was 104.8 thousands UAH, and the residual value was UAH 15.7 thousands UAH. Since the fair (liquidation) value was not determined on the date of mobilization, the accounting department of the military unit recorded the mobilized vehicle on the balance sheet of the military unit at the original cost of UAH 104.8 thousand.</p>	<p>Violation of the requirements for drafting of the primary document in accordance with the requirements of Regulation 88 and violation of the requirements of Art. 8 the Law of Ukraine «About the Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or State of Emergency» dated 17.05.2012 No. 4765-n.VI and amendments dated 06.09.2022 No. 2561-IX in terms of its evaluation.</p> <p>In fact, in case of reimbursement of the value of the mobilized property, the state budget of Ukraine would suffer losses.</p>
<p>2. The act of compulsory alienation or seizure of property (Annex to the CMU Resolution No. 998 dated 31.10.2012) of stocks (timber), does not contain information on their fair value at the time of mobilization, nor does it specify the name of the person who was supposed to make indicated assessment.</p> <p>The inventories were apparently recorded (the type of value is not specified at all - only the amount of money without VAT) at market value (without VAT), although according to Article 8 of the Law on Compulsory Purchase, they should have been recorded at the cost of forced sale (liquidation value in accordance with the classification of types of value according to National Standard 1 «General Principles of Property and Property Rights Valuation»)</p>	
<p>3. In the act of compulsory alienation or seizure of property, an independent appraiser determined the fair value of the mobilized wheeled vehicle as the market value on the date of mobilization.</p>	

Source: authors' own elaboration

The fact is, that if there is a suspicion of errors in determining the fair value or its absence in the act of compulsory seizure, a situation may arise in which the mobilized property will be available in the military unit, but may not be credited to the balance sheet of the military unit. When conducting an inventory in a military unit in this situation, a surplus of property will actually be found. Based on the results of the inventory, such mobilized property may be recognized by the commission as received for free (due to the lack of data on its value at which it was seized from the owner of this property) and evaluated by the commission itself, but it will be guided by accounting standards. Accordingly, new problems arise regarding the possibility of reimbursement to the owner of mobilized property.

We should also note, that the typical violations in the execution of primary documents drawn up during the alienation of wheeled vehicles (Table 3) confirm the lack of quality assessment of mobilized property as of the date of mobilization and alienation of this property at book value. At first glance, it may seem that there is no problem with this, since during martial law everything done by representatives of the mall and the TCC and SS is correct. Meanwhile, in practice, the situation is somewhat different. Firstly, according to the explanations of the commanders of military units, when wheeled vehicles are received by their units without the results of the appraisal being indicated in the act of expropriation as of the date of mobilization by the appraiser, it is prohibited to operate such wheeled vehicles.

Secondly, the question arises if a wheeled vehicle is seized from an enterprise or an individual without having been appraised at its liquidation value and the act of compulsory seizure does not indicate either the name of the appraiser or the results of the appraisal, but simply indicates the book (residual) value of the property or determines its market value. Then such a violation of the requirements of Art. 8 of the Law of Ukraine «About Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» can be interpreted in at least two scenarios (Fig. 2).

In order to understand the correctness of the valuation of mobilized wheeled vehicles, we consider it appropriate to provide an example and an algorithm for determining the liquidation value of a particular wheeled vehicle.

Here is the situation. On 29.05.2022, the Scientific Research Institute of Forensic Expertise and Valuation received an application for a study of a wheeled vehicle, namely a used MERSEDES-BENZ B200, which was forcibly alienated under the legal regime of martial law or a state of emergency, to meet the needs of the state under the legal regime of martial law and transferred in accordance with the requirements of the Law of Ukraine «About Transfer, Forced Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» to the military unit A0800 by the order of the commander of military unit A0800 dated 01.04.2022 No. 105ad, as of the valuation date of 01.04.2022.

According to the Methodology [10], the value of imported wheeled vehicles (their components) is determined after determining their type, model, version, year of manufacture, completeness, manning and engine displacement.

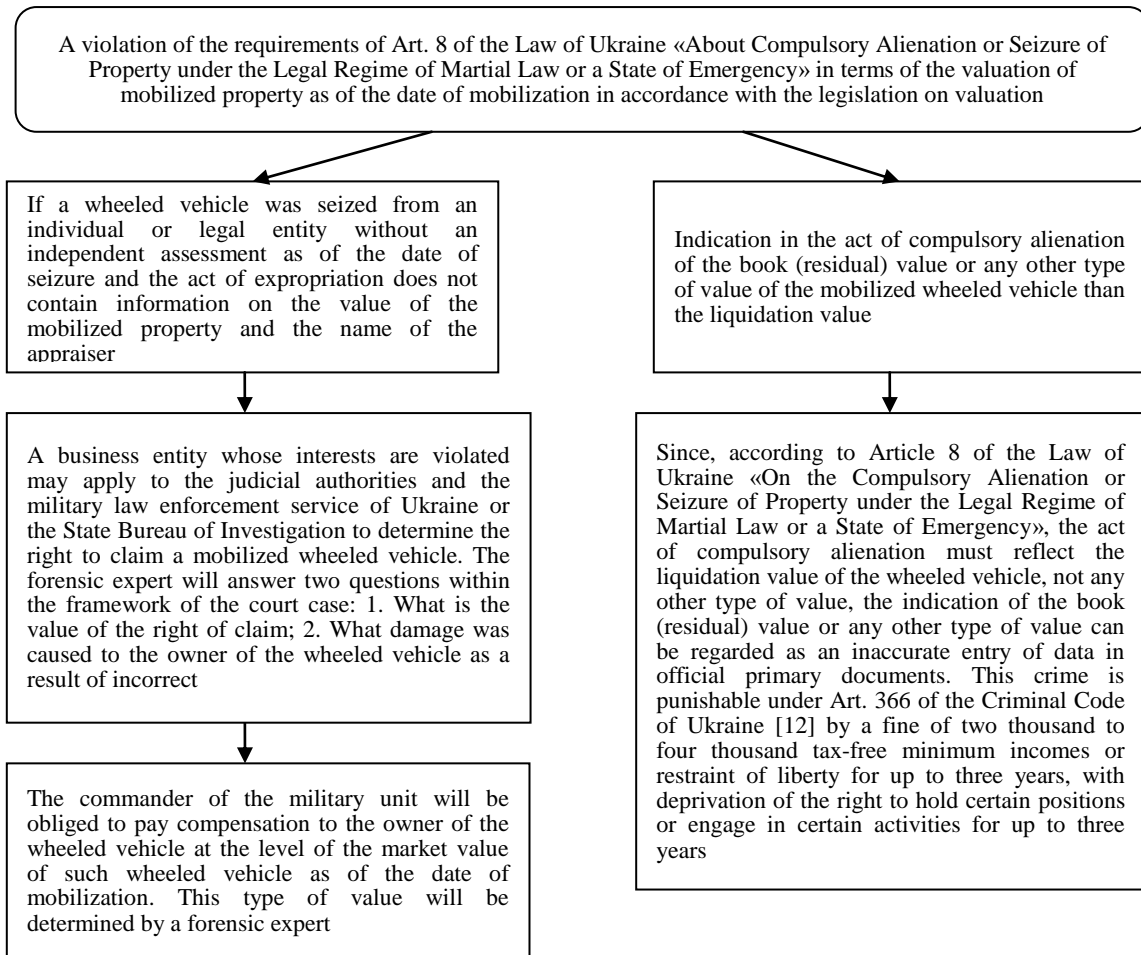


Figure. 2. Consequences of violation of the requirements of Art. 8 of the Law of Ukraine « About Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» [1] in terms of the valuation of mobilized property as of the date of mobilization in accordance with the legislation on valuation

Source: developed by the authors using information from [1, 12]

The cost of motor vehicles imported into the customs territory of Ukraine (C) is determined by the formula [10]:

$$C_1 = C_{cp1} \times \left(1 \pm \frac{\Gamma_K}{100} \pm \frac{D_3}{100} \right) \pm C_{доД}, \quad (2)$$

where C_{cp1} – the average price of a wheeled vehicle imported into the customs territory of Ukraine in the country of purchase or in exporting countries.

$$C_{cp1} = C_{Д1} \times K_1. \quad (3)$$

The average price of wheeled vehicles (their components) imported into the customs territory of Ukraine, does not take into account the costs of delivering them to the customs border of Ukraine, insurance, commissions and brokerage fees, and other expenses;

K_1 – is the coefficient of bringing the value of the motor vehicle in the leading exporting country to its value in the country of purchase.

For motor vehicles imported from the leading exporting countries – Germany, the United States and the Russian Federation (wheeled vehicles manufactured in the CIS countries), its value is assumed to be 1.0.

In case of using information about the average market price of European and Japanese motor vehicles imported from countries that are not the leading exporting countries, the value of K_1 is taken on the basis of the data in Table 4.

Table 4. The value of the coefficient K for bringing the cost of the wheeled vehicle in Germany to its value in the country of purchase

Country of purchase	Value of the coefficient K_1
Scandinavian and Baltic countries	0,9
Countries of the Middle East and Turkey	0,8
Netherlands	0,85-0,9

Source: systematized by the authors based on [10]

$C_{Д1}$ – the price of a used wheeled vehicle of the corresponding service life according to the reference literature, which reflects the prices of vehicles in the country of purchase or in the leading exporting countries.

The average price of buses, special and specialized wheeled vehicles, trailers and semi-trailers, construction and agricultural machinery imported into the customs territory of Ukraine may also be determined by the formula.

$$C_{CP1} = \Pi_H \times \Gamma / 100 \times K_1, \quad (4)$$

where Π_H – is the price of a new wheeled vehicle in the country of purchase or in the leading exporting countries according to reference literature.

The values of the $C_{Д1}$ or Π_H for wheeled vehicles imported into the customs territory of Ukraine are given in the reference literature. The use of Internet resources is allowed to determine the value of the $C_{Д1}$ or Π_H .

To select the value of $C_{Д1}$ from the reference literature, the initial data of the values corresponding to the price of the wheeled vehicle at the time of their acceptance for sale by specialized enterprises in the country of purchase or in the leading exporting countries should be taken into account. Such a value is the minimum possible for a given wheeled vehicle.

If the WV is imported from a country that is not a leading exporting country, the use of reference data reflecting the market price of this WV in the country of purchase is of the highest priority. In this case, the value of K_1 is assumed to be 1.0, and the value of the Γ_K percentage is taken from the information in the reference books that reflect the market price of the motor vehicle in this country. If the reference literature of the country of purchase does not contain data for adjusting the price of the wheeled vehicle depending on the mileage, the adjustment is made according to the data provided in Annex 5 and Table 6.2 of Annex 6 of the Methodology or in other reference literature, in particular in the Bulletin of the Automobile Dealer (periodical).

A similar approach is applied if the leading exporting country exports a wheeled vehicle that is not typical for its exports (for example, in the case of importation of Western European-made cars from the Russian Federation to the customs territory of Ukraine).

The value of Γ for used WV imported into the customs territory of Ukraine is determined by formula (5):

$$\Gamma = C_D \times 100 / \Pi_H, \quad (5)$$

Adjustment of the value of the wheeled vehicle depending on the completeness, conditions of care, storage and use, restoration and renewal of components is carried out according to the information of reference books, that reflect the market price of the wheeled vehicle in the relevant country.

If the reference literature of the country of purchase does not contain data on adjusting the price of the wheeled vehicle, then in order to ensure a unified approach to the valuation of motor vehicles imported into the customs territory of Ukraine, the adjustment of their value depending on the technical condition, completeness, completeness, restoration and renewal of components is carried out according to Methodology [10] (formulas (3.9), (3.10), (3.11)), regardless of the country of purchase. Adjustment of the value of the wheeled vehicles depending on the conditions of care, storage and use, etc. is carried out according to the data given in Methodology [10] (Table 3.2 for calculating Δ).

No adjustment is made to the value of a wheeled vehicles imported into the customs territory of Ukraine, as a result of its painting in colors that are not in demand.

The total value of the percentage of additional reduction in the value of the wheeled vehicle with body defects, which are determined according to Table 3.3 (Methodology [10]), shall not exceed 15%.

The grounds for reducing the value of a wheeled vehicle due to its accidental damage or dismantling, is the mandatory confirmation of this fact in the accompanying documents at the time of crossing the customs border of Ukraine (in the declaration, documents for the purchase of the wheeled vehicle or in the police certificate on a road accident during the movement of the wheeled vehicle to the customs border of Ukraine) and in the act of customs inspection.

If an expert study (examination) of the damaged wheeled vehicle is carried out, photographs are required obligatory.

The determination of the cost of restoration repairs for wheeled vehicles imported into the customs territory of Ukraine has the following features:

- labor intensity standards for the replacement of damaged parts and their painting are accepted according to the manufacturer of the vehicle, and repair –according to the data given in Appendix 7 of the Methodology [10];
 - labor intensity standards for the elimination of body distortions of foreign-made wheeled vehicles are accepted by analogy with wheeled vehicles manufactured in the CIS countries (unless otherwise specified in regulatory and technological documents);
 - allowances for repair work depending on the service life of the motor vehicle are not charged;
 - the cost of materials for repairs is accepted according to the data of the manufacturer of the wheeled vehicle, the manufacturer of paint and varnish and other materials or, accordingly, according to the information of reference literature and computer programs developed according to the manufacturer of the vehicle;
- the recommended cost of one standard hour of repair work for wheeled vehicles imported into the customs territory of Ukraine is determined according to Table 5.

Table 5. Recommended cost of one standard hour of repair work for wheeled vehicles imported into the customs territory of Ukraine

The exporting country from which the wheeled vehicle is imported into the customs territory of Ukraine	Cost of work by types, euros			
	Mechanical works	Bodywork	Painting works	Total cost of one standard hour of repair work
Germany:				
— passenger cars	40,6	44,7	50,7	45
— lorries	42,6	44,7	50,7	46
Spain	23,3	21,5	28,1	24
Italy	20,2	19,0	19,4	20
Great Britain	44	25,1	25,1	31
Belgium	24,8	24,5	24,8	25
Netherlands	32,2	32,2	32,2	32
Switzerland	44,7	45,5	45	45
USA (prices in USD)	60	60	60	60

Source: systematized by the authors based on [10]

The cost of components of wheeled vehicles imported into the customs territory of Ukraine is determined by Methodology [10] (formulas (3.15), (3.16)) in accordance with the prices of new components and the value of the wheeled vehicle in the country of purchase or in the leading exporting countries.

The cost of a new component part is taken as its price from the dealer of the manufacturer of the wheeled vehicle, as well as from computer software products, according to the data of manufacturers of wheeled vehicles and reference literature, and from Internet resources.

If the price of the declared component is unknown, it is allowed to accept the price of a component of a similar wheeled vehicle.

When determining the cost of the body of wheeled vehicle imported into the customs territory of Ukraine, the fact, that manufacturers of wheeled vehicles from foreign countries (except for the CIS) supply only the body carrier (frame) as an independent component without doors, hood, trunk lid, removable wings, upholstery, equipment and other components attached to the body is taken into account.

Exceptions to this rule are specified in the manufacturer's regulatory and technical acts and in the reference literature, which must be referred to by the expert (appraiser).

If the body of a foreign-made wheeled vehicle with some parts and assembly units is submitted for customs clearance, its value is determined by the formula:

$$C_{\text{HD}} = \Pi_{\text{H}} + C_{\text{CK}}, \quad (6)$$

where C_{HD} – the cost of a new body with assembly units imported into the customs territory of Ukraine, in the country of purchase or in the leading exporting countries;

Π_{H} – the price of a new body imported into the customs territory of Ukraine in the country of purchase or in the leading exporting countries;

C_{CK} – the cost of components installed on the body in the country of purchase or in the leading exporting countries.

The bodies of wheeled vehicles manufactured in the CIS countries are valued in accordance with their actual completeness, which is determined by the manufacturer, taking into account the prices of its dealers.

In the case of determining the physical deterioration of the body imported into the customs territory of Ukraine, according to formula 3.16 (Methodology [10]), the adjustment of the value of C is carried out only on the basis of the presence or absence of corrosion damage and the fact of restoration repair.

In the case of determining the physical wear and tear of an engine imported into the customs territory of Ukraine according to the formula 3.16 (Methodology [10]), the adjustment of the value C is carried out only on the basis of signs indicating the need for its repair.

The value of the wheeled vehicles being valued imported into the customs territory of Ukraine.

The expert (a specialist in the relevant fields of knowledge) believes, that the value of the investigated car purchased by the buyer may be equal to the average cost of offers for the sale of a similar car in the country of purchase.

The expert (specialist in the relevant fields of knowledge) was not provided with primary accounting documents (such as: contract, invoice, invoices, invoices, payment order) confirming the cost (price) of the MERSEDES-BENZ B200 imported into the customs territory of Ukraine.

According to the current legislation of Ukraine, the expert has no right to independently collect the initial information for the study.

According to the Internet (mobile.de): The cost of a similar wheeled vehicle (C_D), imported into the customs territory of Ukraine from Germany of a similar car MERSEDES-BENZ B200, 2013, 2013 model year of manufacture (see paragraph 6.33 of the Methodology), actual run= 73783 km, without damage, can be 8950.00 euros.

The cost of a similar wheeled vehicle (C_D), imported into the customs territory of Ukraine from South Korea of a similar car MERSEDES-BENZ B200, 2013, 2013 model year of manufacture (see paragraph 6.33 of the Methodology), actual run = 73783 km without damage, may be: EUR 8950.00 X 0.8 = EUR 7 160.00

The expert (specialist in the relevant fields of knowledge) accepts: $C_D = 7160,00$ euro.

$$C_{cp} = C_D \times K + M [10],$$

$$C_{cp} = 7\,160,00 \times 1 + 0 = 7\,160,00 \text{ euro},$$

where C_D – the price of a used wheeled vehicle, taking into account its service life, according to information from the reference literature, in particular, the list of recommended regulations, methodological and reference literature and computer databases with software [10].

If the reference literature contains sales prices and offer prices, then according to the principle of substitution, the value of C_D should be equal to the sales price of the wheeled vehicle [10].

K – regional market coefficient, which takes into account the level of sales prices and current sales offer prices in a given region relative to prices from the reference literature [10].

The value of the regional market coefficient is indicated in accordance with Table 3.2 of Annex 3 of the Methodology [10].

M – cost equivalent of the amount of taxes, duties, and other mandatory payments during customs clearance in accordance with the current legislation [10].

$C_{доД}$ – an additional increase (decrease) in the market value of wheeled vehicle based on its completeness, equipment, damage, restoration and renewal of components [10].

$Дз$ – an additional increase (decrease) in the market value of the wheeled vehicle depending on the conditions of care, storage and operation [10].

$Гк$ – coefficient of adjustment of the market value of the wheeled vehicle by the amount of operational kilometers [10].

The expert (a specialist in the relevant field of knowledge) accepts:

$$M = 0;$$

$$Гк = 0\%;$$

$$\text{actual run} = 73783 \text{ km.};$$

$$Дз = 0;$$

$$C_{доД} = - 800,00 \text{ euro (according data of technical expertise).}$$

$$C_1 = C_{cp1} \times \left(1 \pm \frac{Гк}{100} \pm \frac{Дз}{100} \right) \pm C_{доД} = 7\,160,00 \times (1 - 0/100) - 800,00 = 6\,360,00 \text{ euro.}$$

$$C_{cp} = 7\,160,00 \text{ euro};$$

$$Гк = 0\%; Дз = 0;$$

$$C_{доД} = - 800,00 \text{ euro}.$$

In accordance with paragraph 7.15 of the Methodology [10], the liquidation value of the vehicle (C_L), its components is due to the limited period of their realization, due to the forced sale and is determined by the following formula (7):

$$C_L = C * K_L, \tag{7}$$

where $K_{\text{л}} = 0,8...0,95$, liquidity ratio (for the calculation, we will take 0.95 in connection with the adoption of the Decree of the President of Ukraine No. 64/2022 dated 02/24/2022 «About introduction of martial law in Ukraine»).

This factor takes into account the following circumstances: restrictions in the organization of market research, forced sale in a short time and lack of pre-sale preparation of the vehicle.

The residual value does not take into account the costs associated with the sale, including commission fees.

Salvage value – is the value, that can be obtained if the object of valuation is sold within a period that is significantly shorter than the period of exposure of similar property, during which it can be sold at a price equal to the market value [9].

Let's determine the salvage value of the investigated wheeled vehicle – MERSEDES-BENZ B200, which was forcibly alienated under the legal regime of martial law or a state of emergency, to meet the needs of the state under the legal regime of martial law and transferred in accordance with the requirements of the Law of Ukraine «About transfer, forced alienation or seizure of property under the legal regime of martial law or a state of emergency» to the military unit A0800 by order of the commander of the military unit A0800 dated 01.04.2022 No. 105ad, as of the valuation date of 04/01/2022, imported into the customs territory of Ukraine:

$C_{\text{л}} = 6\,360,00 \times 0,95 = 6\,042,00$ euro or 196 227,85 hryvnas at the NBU exchange rate by 01.04.2022. (1 euro = 32,4773 hryvnas.)

Thus, the expert (specialist in the relevant fields of knowledge) accepts:

COST OF WHEELED VEHICLE = 6 042,00 euro or 196 227,85 hryvnas at the NBU exchange rate by 01.04.2022. (1 euro = 32,4773 hryvnas).

To determine the issue of compliance with the procedure for mobilization and seizure of wheeled transport means in accordance with the requirements of the Law of Ukraine «About the Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency», dated 17.05.2012 No. 4765-VI and amendments dated 06.09.2022 No. 2561-IX, in our opinion, it is possible to conduct preliminary testing to determine the existence of problematic issues, including the following questions (Working Document (WD) 1).

Table 6. WD 1. Testing for compliance with the organizational principles of mobilization and seizure of wheeled vehicles

№	Test question	Yes	No	Notes
1.	A wheeled vehicle is mobilized (seized) from: - an individual; - enterprises of various forms of ownership, including municipal enterprises (specify the type of enterprise); - state-owned enterprise			If the property was seized (mobilized) from a state-owned enterprise, the procedure is considered to be a seizure of property and no compensation for the value of the property is provided in this case (Articles 3; 9 of the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property in the Conditions of the Legal Regime of Martial Law or State of Emergency» dated 17.05.2012 No. 4765-VI and amended, dated 06.09.2022 No. 2561-IX)
2.	Was the compulsory alienation of a wheeled vehicle under the legal regime of martial law carried out in the area where hostilities are taking place?			
3.	Whether the property was forcibly alienated or seized by a decision of the: - military command; - in the presence of the commander of the military unit			The answer is given if the answer to question 2 was «Yes»
4.	Was the expropriation or seizure of property approved by local authorities or the executive body of the relevant local council?			Under the legal regime of martial law, the procedure of seizure in the areas where hostilities are taking place may be carried out without the consent of local authorities or the executive body of the relevant local council
5.	Was the mobilization of the wheeled vehicle carried out by representatives of the territorial center for manning and social support?			According to the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amendments dated 06.09.2022 No. 2561-IX, have the right to mobilize property only for the needs of the Armed Forces of Ukraine

Source: authors' own development

CONCLUSION based on the test results: an opinion is formed on compliance with the requirements of the legislation as for the procedure for mobilization and seizure of wheeled vehicles.

As a rule, the key conclusions of the study regarding the nature of the operations carried out and their compliance with the applicable law, are based on the results of documentary checks. Thus, when analyzing the

situations of the procedure for mobilization and seizure of wheeled vehicles, the issue of correctness and completeness of documentation remains important. When studying this issue, it is possible to conduct a preliminary test of the quality of documentation of this procedure and the completeness and correctness of filling in the requisite of the relevant documents, certifying its implementation (WD 2).

Table 7. WD 2. Testing the correctness of documenting the procedure for the forced alienation or seizure of a wheeled vehicle under the legal regime of martial law or a state of emergency

№	Test question	Yes	No	Notes
1	2	3	4	5
1.	Are the procedures for mobilizing and removing wheeled vehicles documented?			
2.	What documents have been drawn up (attached) to document the procedure for mobilization and removal of wheeled vehicles: - acceptance certificate; - document establishing the ownership of the property; - technical documentation; - an extract from the register and (or) other documents confirming the specialist's right to conduct the appraisal; - a document containing a conclusion on the value of the property as of the date of its valuation; - an agreement between the appraiser and the owner of the mobilized property			
Whether it is indicated in the acceptance-transfer certificate:				
3	Name of the local council and military command or body responsible for implementing the measures of the legal regime of the state of emergency			
4	Full name, location and identification code of the legal entity to which the property was assigned			
5	Information about the document establishing the ownership of the property (if any)			
6	Description of the property sufficient for its identification – information about the registration number of the wheeled vehicle, make, model, year of manufacture and other registration data			
7	Does the acceptance certificate contain information on the value of the wheeled vehicle as of the date of mobilization?			
8	Is the name of the person who assessed the value of the wheeled vehicle as of the date of alienation or compulsory seizure indicated?			
9	Whether it is indicated who conducted the valuation procedure: - the subject of the appraisal activity; - a forensic expert of a state or non-state specialized expert institution; - a specialist in the relevant field of knowledge (specify which specialist when providing the answer in column 05 of the WD Notes.			In pursuance of the requirements of Art. 8 of the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amendments dated 06.09.2022 No. 2561-IX in terms of assessing the value of a wheeled vehicle as of the date of mobilization in accordance with the legislation on valuation; Articles 10, 11 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activities in Ukraine» dated 12.07.2001 No. 2658-III as amended as of 10.10.2022 No. 2518-IX; Art. 7, 71, Part 2 of Art. 9, Art. 10 of the Law of Ukraine «About Forensic Examination» No. 4038a-XII of 25.02.1994 as amended as of 01.01.2023 No. 2710-IX, 2716-IX.
10	Is the specialist's right to conduct the evaluation procedure and provide the relevant opinion confirmed and how?			For example, an extract from the register of appraisers and (or) other documents confirming the right of the appraiser to conduct the appraisal; a court decision

Continuation of Table 7

1	2	3	4	5
11	Is a document containing a conclusion on the value of the property as of the date of its valuation attached to the transfer and acceptance certificate?			Property appraisal report or expert opinion
12	Is there an agreement between the independent appraiser and the owner of the mobilized property to determine the value of the wheeled vehicle as of the date of mobilization?			Art. 10,11 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Appraisal Activity in Ukraine» of 12.07.2001 No. 2658-III as amended, dated 10.10.2022 No. 2518-IX
13	Who paid for the services of the appraiser or expert organization (expert or specialist in the relevant fields of knowledge): - the owner of the mobilized property; - the commander of the military unit that receives the mobilized wheeled vehicle; - other person			Only the National Anti-Corruption Bureau of Ukraine has a budget for such services. Art. 10, 11 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activities in Ukraine» No. 2658-III of 12.07.2001, as amended, dated 10.10.2022 No. 2518-IX; Art. 71 of the Law of Ukraine «About Forensic Examination» No. 4038a-XII of 25.02.1994 as amended, dated 01.01.2023 No. 2710-IX, 2716-IX
14.	Whether the transfer and acceptance certificate contains, in addition to the value of the wheeled vehicle as of the date of mobilization - the book (residual) value of the mobilized wheeled vehicle according to the accounting data; - the initial cost of the mobilized wheeled vehicle (in case the mobilized wheeled vehicle is new)			According to the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended, dated 06.09.2022 No2561-IX.
15	In case of the valuation of a wheeled vehicle as of the date of mobilization, what type of value, based on the requirements of the valuation legislation, in particular, National Standard 1 «General Principles of Valuation of Property and Property Rights», is indicated in the acceptance certificate: - liquidation value; - market value; - replacement cost; - reproduction cost; - residual value of replacement or reproduction; - other types of value (not specified in National Standard 1 «General Principles of Valuation of Property and Property Rights»)			In accordance with clause 3 of the Resolution of the Cabinet of Ministers of Ukraine No. 1440 dated September 10, 2003, National Standard 1 «General Principles of Property and Property Rights Valuation»: Liquidation value of an object of valuation - the value that can be obtained if the object of valuation is sold within a period that is significantly shorter than the period of exposure of similar property, during which it can be sold at a price equal to the market value Market value of the object of valuation - the value for which the object of valuation may be alienated in the market of similar property on the date of valuation under an agreement concluded between the buyer and the seller, after appropriate marketing, provided that each party acted with knowledge of the matter, reasonably and without coercion
16	Does the transfer and acceptance certificate indicate the amount of money paid (in case of preliminary full compensation of the property value)?			
17	Whether the act contains the signatures of: - the owner of the property or his/her legal representative; - authorized persons of the military common: - authorized persons of the body, that approved the decision on the expropriation of property, or the military command or body, that made such a decision			
18	Does the act contain the stamp of the military command and (or) the specified bodies?			

Source: authors' own elaboration

CONCLUSION according test results: specifies the correctness of documenting the procedure for the forced alienation or seizure of a wheeled vehicle under the legal regime of martial law, or a state of emergency and the completeness of the necessary information.

The next important issue of compliance with the procedure for mobilization and seizure of wheeled vehicles in accordance with the requirements of the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property in the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amendments dated 06.09.2022 No. 2561-IX, which is subject to analysis, in our opinion, is the issue of the validity of the assessment, namely the correctness of determining the liquidation value of the wheeled vehicle as of the date of mobilization and the conclusion about the value of the property as of the date of its assessment, which is indicated in the relevant document (property valuation report or conclusion of the expert's opinion (WD 3)).

Table 8. WD 3. Testing of correctness of determining the liquidation value of a wheeled vehicle as of the date of mobilization in a document, containing the conclusion of the relevant person (subject of the valuation activity of a forensic expert, a specialist in the relevant field of knowledge) about the value of the property as of the date of its mobilization

№	Test question	Yes	No	Notes
1	2	3	4	5
1.	Is there a document containing the opinion of the appraiser (forensic expert, specialist in the relevant field of knowledge) about the value of the property as of the date of its valuation?			
2.	Which document indicates the conclusion of the appraiser (forensic expert, specialist in the relevant field of knowledge) about the value of the property as of the date of its valuation: - property valuation report - conclusion of an expert study; - other			
3	What type of value is determined by a specialist as the basis for valuation in the property valuation report or in the conclusion of an expert study: - liquidation value*. - other types of value**.			* In accordance with clause 3 of the Resolution of the Cabinet of Ministers of Ukraine No. 1440 dated September 10, 2003 National Standard 1 «General Principles of Property and Property Rights Valuation»: Liquidation value of an object of valuation is the value that can be obtained if the object of valuation is sold within a period that is significantly shorter than the period of exposure of similar property, during which it can be sold at a price equal to the market value
				**if the specialist used other types of value and: - the valuation was carried out by a subject of valuation activity, then in accordance with Art. 13 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activity in Ukraine» dated 12.07.2001 No. 2658-III as amended as of 10.10.2022 No. 2518-IX, a representative of the internal control service has the right to order a review of the said report on the evaluation of the mobilized wheeled vehicle; - If the assessment was carried out by a forensic expert (expert or specialist in the relevant fields of knowledge), then in the case of a final type of value that is not the liquidation value, representatives of the internal control service have the right to insist on a new examination (expert study), since the existing one contradicts the requirements of the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended, dated 06.09.2022 No. 2561-IX; Art. 4 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activities in Ukraine», dated 12.07.2001 No. 2658-III as amended, dated 10.10.2022 No.

Continuation of Table 8

1	2	3	4	5
4.	Were the requirements of the methodology contained in Clause 7.15 of the Order of the Ministry of Justice of Ukraine, State Property Fund of Ukraine No. 142/5/2092 «About Approval of the Methodology for Commodity Expertise and Evaluation of Wheeled Vehicles» dated November 24, 2003 applied in the calculation?			
5	Is the presence or absence of VAT indicated in the determined residual value of the wheeled vehicle as of the date of mobilization?			
6	In case of mobilization of non-cleared wheeled vehicles, were non-cleared vehicles (from the country of origin of imported wheeled vehicles imported into the customs territory of Ukraine) taken as comparison objects?			The calculation of the price of a used wheeled vehicle, taking into account its service life, according to information from the reference literature (RI) is taken using sources from the country, where the purchase of the wheeled vehicle was made
7	In case a cleared wheeled vehicle is mobilized, are the objects of comparison taken as those, operating in the domestic market of Ukraine (wheeled vehicles with state registration of Ukraine)?			Calculation of the price of a used wheeled vehicle, taking into account its service life, according to information from reference literature (RI) is taken using data from sources of the domestic market of Ukraine
8	Was the recommended cost of one standard hour of repair work for wheeled vehicles used in determining the market value as the basis for determining the liquidation value in accordance with the Order of the Ministry of Justice of Ukraine and the State Property Fund of Ukraine dated 24.11.2003 No. 142/5/2092 «About Approval of the Methodology for Commodity Expertise and Evaluation of Wheeled Vehicles» as amended 24.05.2022 No. 2060/5/496?			
9	Is the methodology for determining the specific value of the liquidation factor in the range from 0.8 to 0.95 justified?			
10	Is the justification of the specific value of the liquidation coefficient based on a clear evidence base?			
11	When justifying the specific value of the liquidation coefficient, was the methodology of expert assessment of the wear and tear of the mobilized wheeled vehicle used?			

Source: authors' own elaboration

CONCLUSION according to the results of the test:

1. If the requirements are met, a conclusion is drawn from the test results, that specifies the conformity of the assessment made by the specialist.

2. If the information provided in paras. 5-11 contains a negative value, it is advisable to make a decision as for necessity for further actions based on the test results.

Conclusions

Summarizing the above material, we consider it appropriate to use the liquidation value as the basis for the valuation of mobilized wheeled vehicles. The methodology for determining this value is given in clause 7.15 of the Order of the Ministry of Justice of Ukraine and the State Property Fund of Ukraine of November 24, 2003 N 142/5/2092 «About Approval of the Methodology for Commodity Expertise and Evaluation of Wheeled Vehicles». The specific value of the liquidation coefficient should be determined based on the methodology of expert assessment of physical depreciation of property.

Organizational grounds for applying the liquidation value as of the date of mobilization of wheeled vehicles are provided in clause 3 of National Standard 1 «General Principles of Valuation of Property and Property Rights» and the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended 06.09.2022 No. 2561-IX.

In order to avoid certain problematic issues, it is possible to expand the circle of persons who may be involved in the procedure for assessing wheeled vehicles on the date of mobilization, in particular, a forensic expert or a specialist in the relevant field of knowledge.

We consider it appropriate to note, that in order to exercise proper control over transactions with mobilized property, it is advisable to involve military personnel, who are specialists in the relevant field of knowledge. In particular, this is emphasized in the Letter of the Ministry of Defense of Ukraine dated 27.09.2022 No. 220/9487 (inc. No. 2285/0/1-22 dated 28.09.2022), regarding the possibility of involving military personnel as specialists by the courts in the manner prescribed by Article 71 of the Criminal Procedure Code of Ukraine in criminal proceedings for criminal offenses against the established procedure for military service (military offenses).

Problematic issues regarding the legality and consistency of the wheeled vehicle mobilization process can be prevented by properly organizing its ongoing control, compliance with legal requirements and documentation rules. Documentation of procedures for controlling the process of mobilization of wheeled vehicles is proposed in this article. Prospects for further research may be related to improving the methods of assessment and control.

Abstract

The mobilization of wheeled vehicles in favor of the Armed Forces of Ukraine is currently necessary to counteract the military aggression of the Russian Federation. The problematic issues of our study are related to the absence or insufficiency of control over compliance with the mobilization procedure, including the control of compliance with legal requirements; the correctness and completeness of documentation and, in particular, the proper valuation of wheeled vehicles mobilized for the benefit of the Armed Forces of Ukraine. The issue of applying the correct method of assessing the value of a wheeled vehicle as of the date of its mobilization; determining the subject of such assessment remains relevant and controversial.

The complexity of the correct valuation of mobilized vehicles lies in the correct choice of the valuation method and at the same time observing the transparency of the procedure and certain consideration of the principle of fairness of such valuation, because, on the one hand, there is the owner of the vehicle who has the right to reimburse the value of the mobilized vehicle in case of damage as a result of hostilities, and on the other hand, the public authorities, which, according to the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property in the Legal Regime of Martial Law or State of Emergency» dated 17. 05.2012 No. 4765-VI and amended on 06.09.2022 No. 2561-IX, are obliged to reimburse the cost of a mobilized vehicle after the end of military operations on the territory of Ukraine.

Thus, on the one hand, there is a legal entity or individual, who wants to use the reimbursed funds to purchase later on a vehicle, with similar characteristics, and on the other hand, there is the state, that will use budget funds to reimburse the cost of damaged transport means. Therefore, it is advisable to find out whether legislative mechanisms have been developed to ensure a transparent assessment of the value of a mobilized vehicles, and to adhere to the principles of prudence and the prevalence of substance over form, when analyzing a transaction and, accordingly, to organize effective control over the correctness of the transaction, the compliance of its documentation, and recording in accounting and financial statements of objective information as for this type of transaction.

The issues of legality and correctness of the procedure for assessing mobilized wheeled vehicles, methodological approaches to controlling this type of operation need to be specified.

The purpose of the study is to identify the issues of the procedure for mobilization of wheeled vehicles under the legal regime of martial law or a state of emergency, and to provide recommendations for preventing possible violations by specifying: typical violations of the process of mobilization of wheeled vehicles; application of control procedures and their documentation; and an algorithm for assessing the value of a wheeled vehicle on the date of mobilization.

Research methods – general scientific.

The procedure for mobilization of vehicles requires compliance with a number of key points, which, in turn, should ensure its transparency and take into account the interests of the parties involved, in particular, with regard to such issues as compensation for the value of the property to be seized. In order to understand the correctness of the assessment of the value of mobilized vehicles in favor of the AFU for military tasks, it is advisable, first of all, to characterize the term «expropriation of property», on the basis of which the mobilization of property of enterprises is carried out.

According to Art. 1 of the Law of Ukraine «About the Transfer, Compulsory Alienation or Seizure of Property in the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended, dated 06.09.2022 No. 2561-IX, expropriation of property means depriving the owner of the right of ownership of individually determined property that is privately or communally owned and which becomes the property of the state for use under the legal regime of martial law or a state of emergency, subject to prior or subsequent full compensation of its value.

Since, according to the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amendments of 06.09.2022 No. 2561-IX, the owners of the property mobilized from enterprises (organizations) lose ownership of it and have the right to return this property after the end of hostilities on the territory of

Ukraine or full reimbursement of its value, then enterprises - former owners of mobilized property –may identify this transaction in accounting and financial statements as the sale of property with a long deferred payment term (at least as of the date of preparation of the annual financial statements), and accordingly, recognize it as a long-term receivable. The judgment is based on the fact that the legislation stipulates that the period of reimbursement of mobilized property may be within five years from the end of military operations, except for the situation when the cost will be reimbursed within 12 months.

The internal control system of both participants in the process (enterprise and the AFU) should ensure minimization of credit risk in their activities. Since the state is one of the parties to such an operation, an important task of control is to prevent the possibility of causing losses to the state budget of Ukraine, through attempts to overstate the compensation for the value of mobilized property. That is, the procedure for mobilizing the property of enterprises under certain circumstances may be associated with the risk of fraud due to possible manipulation of the property valuation base (selection of an improper type of value at which the transfer of rights to the property of enterprises takes place) and, accordingly, causing losses to the state budget of Ukraine through overstatement of compensation for the value of the mobilized property.

On the one hand, all these types of risks should be mitigated by a correctly conducted assessment of the value of the mobilized property of the enterprise in accordance with the applicable law (through the involvement of an independent appraiser or forensic expert (a specialist in the relevant field of knowledge), and on the other hand, the internal control system at the enterprise that has mobilized the said property should respond to «deviations in the methodology of such assessment, if any». The procedure for mobilizing property concerns the correctness of accounting and reporting by both parties: the owner – the expropriation of property, and the state organization (military unit), whose representatives will use such property – taxation and use. For both parties to this transaction, it is important to document the fact of property alienation by correctly executing the relevant document, in particular, the act of compulsory seizure of property. Therefore, in order to comply with the requirements of documentation, we consider it expedient to investigate the completeness and correctness of filling in the content of this primary document in accordance with the existing regulatory requirements.

In order to develop tools that should be used in the internal control of operations related to mobilization of enterprise property, it is advisable to characterize the essence of these operations, both from the legal side and from the side of documentation and accounting. Both of these dimensions of the analysis of operations related to the mobilization of enterprise property should be taken into account when implementing internal control measures aimed at reducing the risks of violation of legal requirements.

For both parties to this transaction, it is important to document the fact of property alienation by properly executing and, in particular, drafting the relevant document – the act of compulsory seizure of property. Therefore, the procedure was applied to assess the completeness and correctness of filling in the content of this primary document in accordance with the existing regulatory requirements.

The analysis of the regulatory requirements for the preparation of the act of compulsory seizure, on the basis of which the mobilized property of enterprises is recorded on the balance sheet of the military unit, shows that the regulations provide for the availability of information on the value resulting from the assessment of the value of the mobilized property, which should be indicated in this primary document. This «trivial conclusion» may seem obvious only at first glance, since the fact is that by law, the only persons allowed to carry out the procedure of mobilization of enterprise property are recruitment and social support centers (hereinafter referred to as «TCC and SS»), commanders of military units if the property is mobilized in the combat zone, or with the permission of local authorities (if the property is not mobilized in the combat zone). In practice, not only the armed forces of Ukraine, but also the police, the Security Service of Ukraine, the prosecutor's office, and others, i.e. services that are not listed and, accordingly, are not formally entitled to do so under the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property in the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended on 06.09.2022 No. 2561-IX, have mobilized the property of enterprises. Thus, the question arises whether the mobilization of property by these services can be considered legal.

On the legal side, the mechanism for delegating authority to the proper persons who directly carry out the assessment of mobilized property is extremely controversial and imperfect. The uncertainty we have identified in this regard creates a risk that the results of the assessment of mobilized property will be recognized as questionable.

The imperfection of the valuation mechanism is relevant in connection with the possibility of questioning the results of such valuation in case of the need for real compensation for the value of mobilized property, and this is likely to be most evident after the end of hostilities. The imperfection of the valuation mechanism is also manifested in the issue of determining (electing) a person who may be authorized to assess the value of mobilized property and actually engage in the valuation process. The problematic nature of this issue is confirmed by the fact that there are a sufficient number of cases when the evaluation procedure was violated and independent evaluation specialists were not involved.

When documenting the transaction, the acts of compulsory seizure of property indicated the value, which at best corresponds to the accounting data of the owner. There are also cases when the documents used terms for determining the value of the mobilized property that do not meet the standards of accounting and independent evaluation (for example, the term «the real value of the object is...»). Ultimately, the poor quality of

documentation and determination of value indicators in the primary documentation leads to the fact that accountants of military units cannot timely record mobilized property, correctly calculate depreciation, justify the write-off of fuel used to operate mobilized wheeled vehicles, etc.

The next important issue is compliance with the requirements for the involvement of appraisers, i.e. those persons who are entitled under the applicable law to be involved in the appraisal procedure (involvement of an independent appraiser in accordance with Article 8 of the Law of Ukraine «About Appraisal of Property, Property Rights and Professional Appraisal Activity in Ukraine»).

It should be noted that, on the one hand, the Law of Ukraine «About Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» clearly states that the valuation of mobilized property of enterprises should be performed by a valuation entity. If it is not possible to engage it, the state authorities or local self-government bodies, in agreement with the property owner or in the absence of the property owner, should carry out such an assessment independently.

We believe that during the mobilization of the property of enterprises located in the combat zone, there may be circumstances that significantly complicate both the legality of the assessment itself and the credibility of its results. For example, according to Art. 10 of the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activities in Ukraine», property is valued on the basis of an agreement between the valuation entity and the valuation customer or on the basis of a court order appointing a relevant property valuation expertise.

A legal analysis of these provisions shows that in practice the following situation occurs: if the property owner does not have property at the time of mobilization or does not want to enter into an agreement with the appraiser, then according to the Law of Ukraine «About Valuation of Property, Property Rights and Professional Valuation Activities in Ukraine», such valuation may be invalidated. In addition, even when public authorities independently enter into an agreement with an independent appraiser, the question arises as to who will pay for the appraiser's services in the event of a company's property mobilization.

If the mobilization of property is carried out by representatives of the TCC and SS or directly by the commander of a military unit, these persons may find themselves in a situation where they do not have the money to pay for the services of an appraiser. Therefore, an independent appraisal of mobilized property may either be significantly delayed or not take place at all. Under such conditions, and as a result of accelerating the transfer of property to the needs of the Armed Forces of Ukraine, the act of compulsory seizure either contains the residual value of the property taken from the accounting registers (if available) or does not contain the results of the appraisal at all.

The absence of an amount in the primary document during the control is regarded as the absence of an important document requisite and is a violation of the procedure for its execution. In the future, such primary documents may be recognized as invalid (i.e., not giving the right to conduct an accounting transaction) and, on their basis, the recording of mobilized property on the balance sheet of a military unit may be violated or not carried out at all, and, accordingly, the very procedure for reimbursement of the value to the property owner and the amount of such reimbursement may be questioned.

From the point of view of accounting and control, there are somewhat different issues aimed at avoiding the risk of fraud and credit risk for enterprises. In particular, the main issue in terms of assessing the value of the mobilized property of enterprises is the choice of the valuation basis that will determine the fair value of such an object. From the perspective of internal control, the primary issue is how the value of the mobilized property is determined and whether it meets the requirements of national or international accounting and reporting standards.

Since professional judgment will be applied in determining the fair value of the mobilized property, it is necessary to find out how verifiable the unobservable data are and the validity of the specific valuation methods used by the forensic expert or independent appraiser. In order to answer these questions, we believe that it is advisable to first establish what type of value is specified by law for use in operations to determine the value of mobilized property of enterprises and individuals.

The main, in our opinion, incomparable aspects between the valuation of mobilized property at market value and martial law are that when market value is used, it is assumed:

1. failure to carry out the expropriation of property;
2. it automatically follows from the first statement that the exposure period (the period during which the object of valuation can be put up for sale at the highest price) under conditions of compulsory sale is much shorter than that which would be the case if the market value is used as the basis for valuation of the asset;
3. the use of market value as the basis for valuation presupposes the existence of an active market, namely, similar transactions under which similar property is purchased or sold and the said transactions have common features with the transaction for which the valuation was performed.

Critically assessing the existence of the above conditions as a basis for using the market value as the basis for the valuation of mobilized property, we note that:

- the very fact of mobilization is a forced alienation of property and, accordingly, the owner's permission is not required for its implementation. Thus, the condition of absence of coercion in the transaction is not met;
- there is no active market and no such agreements under which property is alienated a priori;

— it is inadmissible to apply the principle of the most efficient use to the procedure of alienation of property for the needs of the Armed Forces of Ukraine.

Thus, we have proved that the use of market value as a basis for the valuation of mobilized property of enterprises and individuals is incorrect, since the conditions for its application are not met. Therefore, it is logical to assume that for the correct valuation of mobilized property, it is advisable to use a non-market value, namely, liquidation value. Liquidation value in accordance with the provisions of the National Valuation Standard 1 «General Principles of Valuation of Property and Property Rights» should be understood as the cost of forced sale. And this type of value is most relevant to the event of alienation of property of enterprises and individuals for the needs of the armed forces of Ukraine.

Meanwhile, a quite logical question arises: how do the state authorities see the calculation of this type of value, since the national valuation standards contain only general guidelines for the implementation of valuation activities. The answer to this question, in our opinion, can be found in clause 7.15 of the Order of the Ministry of Justice of Ukraine, the State Property Fund of Ukraine dated November 24, 2003 No. 142/5/2092 «About Approval of the Methodology for Commodity Expertise and Valuation of Wheeled Vehicles».

An extremely relevant and controversial issue when determining the liquidation value of mobilized wheeled vehicles is the justification by the expert or appraiser for choosing a specific value of the liquidation coefficient from the range of 0.8 to 0.95. We consider it appropriate to note that the choice of a specific value of this coefficient should be based on the results of the technical examination of each specific wheeled vehicle. In accordance with the result, which will be contained in the act of technical condition of mobilized property, it is possible to use the scale of expert assessments to determine the physical wear and tear of a wheeled vehicle based on external inspection.

Summarizing the above material, we consider it appropriate to use the liquidation value as the basis for the valuation of mobilized wheeled vehicles. The methodology for determining this value is given in clause 7.15 of the Order of the Ministry of Justice of Ukraine and the State Property Fund of Ukraine of November 24, 2003 N 142/5/2092 «About Approval of the Methodology for Commodity Expertise and Evaluation of Wheeled Vehicles». The specific value of the liquidation coefficient should be determined based on the methodology of expert assessment of physical depreciation of property.

Organizational grounds for applying the liquidation value as of the date of mobilization of wheeled vehicles are provided in clause 3 of National Standard 1 «General Principles of Valuation of Property and Property Rights» and the Law of Ukraine «About the Transfer, Compulsory Alienation or Seizure of Property under the Legal Regime of Martial Law or a State of Emergency» dated 17.05.2012 No. 4765-VI and amended 06.09.2022 No. 2561-IX.

In order to avoid certain problematic issues, it is possible to expand the circle of persons who may be involved in the procedure for assessing wheeled vehicles on the date of mobilization, in particular, a forensic expert or a specialist in the relevant field of knowledge.

We consider it appropriate to note, that in order to exercise proper control over transactions with mobilized property, it is advisable to involve military personnel, who are specialists in the relevant field of knowledge. In particular, this is emphasized in the Letter of the Ministry of Defense of Ukraine dated 27.09.2022 No. 220/9487 (inc. No. 2285/0/1-22 dated 28.09.2022), regarding the possibility of involving military personnel as specialists by the courts in the manner prescribed by Article 71 of the Criminal Procedure Code of Ukraine in criminal proceedings for criminal offenses against the established procedure for military service (military offenses).

Problematic issues regarding the legality and consistency of the wheeled vehicle mobilization process can be prevented by properly organizing its ongoing control, compliance with legal requirements and documentation rules. Documentation of separate procedures for controlling the process of mobilization of wheeled vehicles is proposed in this article. Prospects for further research may be related to improving the methods of assessment and control.

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Посилання на статтю:

Volchek R.M. Internal Control of the Procedure for Estimating the Cost of Mobilized Wheeled Vehicles of an Enterprise / R.M. Volchek, S.I. Bolshakov, V.F. Ivanov, S.V. Samostrol // Економічний журнал Одеського політехнічного університету. – 2023. – № 1(23). – С. 60-85. – Режим доступу до журн.: <https://economics.net.ua/ejopu/2023/No1/60.pdf>.

DOI: 10.15276/EJ.01.2023.7. DOI: 10.5281/zenodo.7927345.

Reference a Journal Article:

Volchek R.M. Internal Control of the Procedure for Estimating the Cost of Mobilized Wheeled Vehicles of an Enterprise / R.M. Volchek, S.I. Bolshakov, V.F. Ivanov, S.V. Samostrol // Economic journal Odessa polytechnic university. – 2023. – № 1 (23). – P. 60-85. – Retrieved from <https://economics.net.ua/ejopu/2023/No1/60.pdf>.

DOI: 10.15276/EJ.01.2023.7. DOI: 10.5281/zenodo.7927345.

