

Ukraine

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Hanna and her sick husband Oleksiy live in Shchastya, Luhansk. The couple, married for 56 years, refuse their daughter's pleas to leave their home. Like hundreds of thousands of older people in Luhansk, they face social, financial, and medical difficulties since the start of the conflict in eastern Ukraine in April 2014. Photo: UNHCR/ Anastasia Vlasova

Legislative developments

This update describes legislative and policy developments during October, including draft legislation pertaining to the situation of internally displaced persons (IDP), and the discussion around the identification of the legal status of the non-government controlled areas of Donetsk and Luhansk regions. It also presents a recently elaborated and not adopted yet government solutions strategy on internal displacement.

Adopted legislation

Prolongation of Donbas special status

On 7 October, the President signed the draft law on the necessary conditions to ensure a peaceful settlement in certain areas of Donetsk and Luhansk regions.¹ The law extends the duration of the special self-government regime for certain areas of Donetsk and Luhansk regions for one year. The prolonged law on special measures of local self-government in Donetsk and Luhansk regions includes an amnesty to participants of the “developments in the territory of Donetsk and Luhansk regions”, guaranteed usage of local languages, special approaches to law-enforcement in these regions, and the establishment of special economic ties with other regions. The implementation of the special self-government provisions depends on the fulfilment of certain preconditions, including a sustained ceasefire, disarmament, and the restoration of government control over Ukraine’s eastern border with the Russian Federation.

Draft legislation

Draft law on the restoration of sovereignty over certain areas of Donetsk and Luhansk regions

On 4 October, the President registered a long anticipated draft law aimed at identification of the legal status of the non-government controlled areas of Donetsk and Luhansk regions. It also contains certain elements of state policy on the restoration of control and sovereignty over those territories. Draft law no. 7163² contains the following main provisions:

- It declares the non-government controlled areas of Donetsk and Luhansk regions temporarily occupied by the Russian Federation, the boundaries of which are to be identified by the Ministry of Defence. Their designation as “temporarily occupied territories” means that the full body of international humanitarian law, including the law of occupation, shall apply in the territories. Moreover, the “Anti-terrorist Operation” (“ATO”) may be substituted by defensive operations to be led by a ‘Unified Operational Command of the Armed Forces of Ukraine’. The latter will have authority over all military and law enforcement actors involved in defence operations in Donetsk and Luhansk regions. It is possible that two regimes (the “ATO” and the

¹ Draft law no. 7164 was voted in Parliament on 6 October. The full text is available online (in Ukrainian): <http://zakon3.rada.gov.ua/laws/show/2167-viii>

² The full text is available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62638. Four alternative drafts were registered; however, as the Presidential draft was voted in the first reading, other drafts are considered to be declined.

defensive operations) would exist in parallel, though the intentions are not clear at present.

- Any document issued by de facto authorities is considered null and void with no exception for birth and death certificates.
- The draft law reconfirms Ukraine's positive obligations toward the protection of human rights of residents of the "temporarily occupied territories". However, difficulties may arise if the full body of the existing Law of Ukraine on the "temporarily occupied territory" of Ukraine (from 2014, concerning Crimea) would be applicable to the Donbas. In particular, this may result in a full blockade regarding the pension payments and result in the adjudication of judicial cases concerning the "temporarily occupied territories" in respective Kyiv courts.
- It remains unclear how all the existing temporary measures for the period of the "ATO",³ which ensure access to a number of rights for IDPs and residents of the "temporarily occupied territories", will be implemented. The "ATO" may indeed cease after adoption of a Presidential decree upon which the Law of Ukraine on the temporary measures for the period of the "ATO" would immediately cease, as stipulated in its own provisions. Therefore, there is a risk that many situations currently regulated "for the 'ATO' period" would appear in a legal vacuum and would require additional legal measures for proper regulation.

Other questionable provisions of the draft law include the delivery of the humanitarian aid and the conditions for crossing the line of contact.

While welcoming the efforts to build a consistent legislative framework, UNHCR notes that some safeguards are necessary. Extensive work is ongoing to prepare the text for the second reading with the involvement of international and civil society organizations.

Restriction on trips to the Russian Federation

Draft law no. 7187,⁴ registered in Parliament on 9 October, limits the right of certain high level civil servants and workers of local government entities to travel to the Russian Federation. Such trips for these individuals may constitute an administrative offence and may result in the termination of employment with state or local government authorities. The draft is inspired by security concerns. It contains safeguards with regard to personal visits (such as travel to attend the funeral of a close relative). The draft law will not have any major impact on the overall human rights situation.

³ Law of Ukraine on the temporary measures for the period of the "ATO". <http://zakon2.rada.gov.ua/laws/show/1669-18>

⁴ The full text is available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62698

Draft strategy on the integration of IDPs and durable solutions until 2020

On 11 October, the Ministry of Temporarily Occupied Territories and IDPs presented its strategy on the integration of IDPs and durable solutions for public consultation.⁵ The text of the strategy comprises a general overview and problem statement, aims and principles, areas of intervention and implementation mechanisms. The part of the strategy concerning areas of intervention covers:

- Protection of property rights, including the right to housing, restitution of lost or damaged property, and access to pensions.
- Social and economic rights of IDPs, including employment, education, and access to medical services
- Support to host communities.

While generally welcoming the draft strategy, UNHCR notes that it lacks clear timeframes and indicators related to its implementation. Suggested strategic areas largely focus on small-scale activities, rather than strategic goals. The strategy also requires additional durable solutions in addition to integration. Nonetheless, the document provides a good foundation for further work. UNHCR contributes to development of the strategy together with other international and civil society organizations.

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⁵ The announcement and the text of the Strategy are available online (in Ukrainian): <https://goo.gl/L5T2S2>. The English translation is available at: <https://goo.gl/6jnzcV>