



European Union  
Civil Protection and  
Humanitarian Aid

## LEGAL ALERT

June 2017

### 1. Parliament has adopted first reading of the draft law targeting medical reform

Provision of medical care and medicine has been a reform agenda for the government for some time as reflected in Cabinet of Ministers of Ukraine (CMU) and Ministry of Health initiatives last year. The draft law No 6327 aims at providing legislative frameworks to the ongoing CMU initiatives. Under existing law, health care services are to be provided free of charge. The draft law will partly modify the free healthcare right, and introduce new procedure for accessing state guarantee.

The reform in general is meant to provide better access and quality of healthcare. For example, people suffering certain types of diseases were often deprived of the free medicines where the local bodies lacked the funding. Under the proposed Governmental Program<sup>1</sup> those who suffer for cardiovascular disease, diabetes type II and asthma, the claimants will be entitled to obtain the medicines from the pharmacies which will charge the cost on the state fund.

#### Salient features of the draft law

- State guarantee for full coverage of emergency, primary and palliative care continues.
- Claimants of secondary (specialized) and tertiary (high-qualified) medical care will be paying a varying rates. The rates are to be established by separate Resolutions of the CMU. Full or partial coverage of such expenses by the state will be possible.
- The CMU shall establish a new body accomplishing state policy in the field of financing of medical services and medicines.
- The new body will publish a list of services and medicines that are to be financed by the state.
- Provision of medical services will not be linked to claimants place of registration known as the 'propiska' system.

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<sup>1</sup> Governmental Program 'Affordable Medicines' which was launched on April 2017 for cardiovascular disease, diabetes type II and asthma

- The law provides authority to the CMU to reduce funding of healthcare facilities by the state, with the exception for those providing services within the state-guaranteed package.

### Implications for IDPs and buffer zone population

The draft proposes variable co-funding rates for health care services and medicines, which are to be determined by the CMU. The draft lists disabilities, war veterans and some other vulnerability categories for preferential treatment for co-funding rates. It, however, does not provide any preferential treatment to IDP or buffer zone conflict affected people. Following positive and negative implications for the IDPs and buffer zone population are likely to flow from the draft law:

- As claimants of secondary (specialized) and tertiary (high-qualified) medical care services will have to pay variable rates, conflict affected people will be impacted in the same way as the general population will be impacted. The rates and criteria for accessing lower rates are to be determined by a subsequent CMU Resolutions, however current preferential treatment for some categories remains valid.
- Delinking from the 'propiska' system could be a big positive for the IDPs. According to DRC 2017 legal aid needs assessment survey, nearly half of the IDPs failed to access free health care services. One of the reasons cited was the refusal of local healthcare provider to serve people who are not registered in the particular locality.

### No benefit to the civilian victims of the conflict

The draft law proposes full or partial coverage for military veterans of the conflict. It, however, ignores the civilian victims of the conflict. The latest OHCHR quarterly report indicates 23,966 cases of civilian injuries since the beginning of the conflict. Most traumas received in course of the hostilities are registered as household or work injuries. According to the DRC 2017 legal aid needs assessment survey, 22% of the respondents in the buffer zone mentioned that at least one member of their household was injured during the conflict or by mine or UXO related incidents. 98% of those injured reported no state aid whatsoever.

Use the link below for the text of the draft law

[http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61566](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61566)

## **2. Housing payments to IDPs – shrinking of rights**

The amendments to Resolution 505<sup>2</sup> regarding monthly housing assistance were adopted by CMU. They empower the authorities to deny provision of housing assistance (rent and utility subsidy) to IDPs if an IDP or someone from his/her family owns housing or a part thereof on the government-controlled territory, while the previous edition of the document did not refer to a part of the housing. Moreover, these amendments narrowed the list of IDPs eligible for

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<sup>2</sup> CMU Resolution 505 as of 1 October 2014 'On the Provision of Monthly Targeted Assistance to Internally Displaced Persons to Cover Housing Expenses, Including Payment of Utilities'

such assistance geographically. Only those originating from the settlements “where state authorities temporarily do not exercise their powers or located along the contact line<sup>3</sup>” are considered as eligible. The list of the above settlements is narrower than the list “where ATO was conducted”<sup>4</sup> which was used in previous edition of the document.

People from GCA impacted by the narrowed down of geographic coverage may still be eligible for the housing assistance if they fulfil all of the following conditions: i) holds an IDP certificate ii) has property in GCA which was damaged in the result of ATO iii) possess a certificate of damage containing the technical state of the property.

#### Potential negative impacts of the amendments:

- IDPs or someone from his/her family owning a part of housing in GCA will not be entitled to housing assistance even if the housing in the Government-controlled territory is only few m<sup>2</sup>. It is pertinent to mention that during the privatization process in the beginning of 1990s, family members were provided fractional ownership to properties. Therefore, it is not uncommon to have legal ownership of a small fraction of a property.
- There had been court judgements that established IDPs right to housing assistance regardless of fractional ownership of property within GCA. The new amendments have effectively nullified the court dicta.
- The narrowing down of geographic coverage of settlements may lead to cancellation of housing assistance to many IDPs. IDPs, particularly in the Kharkiv region where many of them were benefiting from the old criteria of “ATO list of settlements”, will be hit hard.
- IDPs, whose houses in GCA were damaged during ATO, may find it challenging to access the housing assistance due to the condition relating to technical certification of the damage. No effective process has been established so far for certification of damage. It is only the village and city council that are providing generic statement of damage in their letterheads. Whether such statement will be adequate for the purpose of meeting the conditions of the CMU remains to be seen.

Full text: <http://zakon3.rada.gov.ua/laws/show/370-2017-%D0%BF>

### **3. Additional eligibility criteria to become an IDP**

Amendment to the Resolution 509<sup>5</sup> adds additional eligibility criteria for getting IDP certificate, which now can be issued also to students who moved from the “temporarily occupied territory of Ukraine, settlements where the state authorities temporarily do not

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<sup>3</sup> CMU Resolution No 1085 as of 7 November 2014 ‘On the List on Settlements Where State Authorities Temporarily Do Not exercise Their Powers and Located Along the Contact Line’

<sup>4</sup> CMU Resolution No 1275-p as of 2 December 2015 ‘On Approval of the List of Settlements Where Anti-Terrorist Operation Was Conducted and Ceasing to be Valid of Certain Orders of the Cabinet of Ministers of Ukraine’

<sup>5</sup> Resolution No 509 as of 1 October 2014 ‘On Registration of Internally Displaced Persons’

exercise their powers, and from the ones along the contact line". Once students are deregistered from universities' dormitories upon graduation, they can apply for an IDP certificate, unless they decide to come back to places of their habitual residence. This amendment harmonizes the Resolution 509 with the IDP Law which had similar provision that was not uniformly applied by Departments of Social Protection (DoSP).

Full text: <http://zakon2.rada.gov.ua/laws/show/371-2017-%D0%BF>

#### 4. Package of laws on energy efficiency of Ukraine

In June, Parliament adopted a package of three laws<sup>6</sup> aiming at enhancing the system of energy efficiency which in result should decrease prices for utilities in Ukraine. Changes introduce certification of houses as a mechanism to measure consumption of utilities and obligatory installment of counters of consumed water and heating. The national standards will be developed based on EU and Energy Community norms as well as other international standards. A special fund will reimburse beneficiaries' expenses for installed energy efficient equipment after an energy audit of the houses is conducted by government. This shall have an effect on people living in multistory buildings and private houses.

*Potential long term impact on IDP affordable housing solutions:* According to the November 2016 Inter Agency Vulnerability Assessment (IAVA) Report, conducted in Luhansk and Donetsk Oblasts, utility and heating costs constitute 70% and 53% of IDP housing costs in rural and urban areas respectively. The provision of the drafts law with regards to energy efficiency standards for building construction, and the certification process may contribute towards reduced utility and heating costs in newly constructed units. The provision relating to reimbursement of expenses for installment of energy efficient equipment will be a useful option for IDP housing providers to explore once the law is enacted and put into force.

*Some terminologies used in this issue of the Alert are taken from the draft laws or current legislation and do not necessarily reflect the position of DRC.*

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<sup>6</sup> Draft Law 'On Energy Efficiency of Buildings No. 4941-D; Draft Law 'On Fund of Energy Efficiency' No. 5598; Draft Law 'On Commercial Accounting of Utilities' No. 4901