



DRC / DDG LEGAL ALERT: Issue 36 January, 2019

1. The Cabinet Develops an Amendments on Regulation of Humanitarian Aid

On 23 January 2019 the Cabinet has [approved](#) a project of a draft law called 'On Amending Regulation On Humanitarian Aid' to be submitted to the Parliament for its further consideration.

As announced, the draft law provides:

- simplified mechanism for providing humanitarian aid by representative offices of foreign & international NGOs and foreign governmental organisations that obtained State accreditation;
- provisions aimed to 'increase targeting' of aid and expedite aid delivery to beneficiaries;
- the Commission on humanitarian aid under the Cabinet of Ministers will replace the Ministry of Social Policy, to provide recognition of humanitarian aid (cargo, monetary aid, works);
- existing power of regional state administrations to recognise cargo up to 3 tons as humanitarian aid to be expanded to cargo up to 10 tons.

It is pertinent to mention that on 1 April 2016 a [draft law](#) titled 'Humanitarian Aid in Crisis Situations', supported by humanitarian actors, was registered in the Parliament. OCHA along with the Parliamentary committee on veterans' affairs made a presentation on the draft law on 16 May 2016. The draft has not shown any movement in the parliament for the last three years. It is unclear whether the current initiative of the Cabinet relates to the 2016 draft law or a fresh initiative of the Cabinet.

2. The Cabinet Rejuvenates Youth Loan Programme Under the State Fund for Support of Youth Housing

On 18 December 2018 the Cabinet has adopted Resolutions No. [1087](#) and [1090](#). Both Resolutions pertain to State Youth Fund's roles in supporting youth housing. The State Youth Fund, commonly known for its "affordable housing" programme also has a preferential loan programme that specifically targets the youth. The purpose of the two Cabinet Resolutions is to rejuvenate the youth loan programme with some significant modifications in loan terms and conditions. The modifications also create new groups of youth, including IDP youth, who will get preferential treatment. This new programme mechanism should not be mixed with the 'affordable housing' programme run by the Fund.

Salient features of the Resolutions:

- regulation is provided to enable the programme's mechanism of granting loans;
- first priority access to the programme is provided to:
 - IDPs;
 - 'ATO' veterans and family members of 'ATO' personnel killed in action;
 - Family members of deceased participants of the Dignity Revolution.

Terms of the loan agreement:

- the loans are provided with an interest rate equalling to the discount rate of the National Bank of Ukraine (18% per year as of 1 February 2019); no interest is payable for the period the applicant serves in the military;
- only candidates under 35 years old (inclusively) are eligible; for the young families, both the spouses have to meet the age requirement;
- the loan is provided for up to a 20 year term;
- applicant's monthly income per each working member of the family must exceed 3 times the living wage – after deduction of the monthly loan instalment payment;
- candidates must either have no housing in their ownership, or be enlisted in the improvement of living conditions programme meeting all the related requirements¹. However, IDPs owning a real estate property in NGCA & the contact line or in Crimea will not be disqualified;
- limitation on price of housing available under the programme is based on the construction cost rate defined on a quarterly basis by the Ministry of Regional Development for each region².

¹ Participation in improvement of living conditions programme requires that the housing which is available to the person is not satisfactory either because of the sanitation or the size

3. New Law to Counter Bullying in Schools

On 18 December 2018 the Parliament adopted Law No. [2657](#) amending a number of current legislative acts countering bullying in schools. The law has particular relevance to children affected by conflict and displacement. For example, over 20% of child victims of mine incidents, served by DRC-DDG’s Mine Victim Assistance project, have faced bullying at school.

The law defines bullying as any psychological, economical, physical, or sexual violence committed to a child (person under 18 years old) by another person involved in an education process that results in or could result in harm to the physical or mental health of the victim. The definition includes coverage of communication through electronic mediums. Harm, for the purpose of the law, includes the emergence of fear, anxiety, humiliation, submissive feelings and social isolation of the victim.

Bullying response mechanism:

- i) Victim or witness of bullying to inform the school staff, psychologist, social welfare service, National Police, or free legal aid service;
- ii) Such person serves the head-staff of the school with a written notice;
- iii) The head-staff investigates the case and calls for a meeting of a Commission on counter-bullying;
- iv) The Commission, comprised of teachers, a psychologist, parents of the victim and the alleged bully, and the head-staff of the school, considers whether the case pertains to systematic bullying or a single incident. In case of systematic bullying, the head-staff reports the case to the National Police;
- v) Regardless the Commission’s decision, the victim is entitled to directly address the National Police at any moment.

Responsibility for bullying:

	If committed by a person older than 16 years old	If committed by a person under 16 years old (imposed on person’s parents)
If the person has no bullying records during the previous year and committed it alone	Fine from 850 to 1700 UAH – OR – Forced community service from 20 to 40 hours	
If committed repeatedly within a year OR by a group of persons	Fine from 1700 to 3400 UAH – OR – Forced community service from 40 to 60 hours	
Non-communication of bullying cases to the National Police by the school head-staff	Fine from 1700 to 3400 UAH – OR – 20% salary cut for 1 month	

4. The Cabinet Enhances Protection of Child-Victims of Domestic and Sex-Based Violence

On 23 January 2019 the Cabinet has adopted Resolution No [43](#). The Resolution provides the following:

- Children who are victims of domestic or sex-based violence are now eligible for a wide range of social protection services involving social integration, adaptation, mediation, supervision, psychological-rehabilitation, and safe custody;
- State Service on Children Affairs is responsible for development of measures on protection and education of the abovementioned children. The Service is also responsible for initiating processes for establishing administrative responsibility for officials who fail to fulfil their duties in the protection of children from violence;
- Mobile teams for psycho-social support of domestic violence child-victims can be established

² For more information on the housing price requirement please refer to article 5, paragraph 17 of the Order of Fund’s Use adopted by Cabinet Resolution No. [488](#) and Ministry of Regional Development’s [Order](#) No. 46 dated 01.03.2018

5. The Cabinet Expands The List of Construction Works Which Do Not Require Obtaining Permission

Background: A very large number of residential and non-residential houses, infrastructural facilities and commercial sites in the conflict affected regions of Eastern Ukraine are in need to repair and rehabilitation. In addition to the cost of repair, the complexity and delay in obtaining permission from regulatory bodies are seen as major obstacles for rehabilitation. In June 2017 the Cabinet adopted a [Resolution](#) providing a list of construction works which were exempted from the requirement of obtaining reconstruction permits. On 18 January 2018 the Cabinet has [expanded](#) that list. Accordingly, the following kinds of construction works neither require obtaining the State Architectural Inspection’s permission nor passing further recommissioning process:

- reconstruction, technical re-equipment, or major repair of power, heating, ventilation, and water supply & drainage systems;
- refurbishment and remodelling of housing, non-residential premises, and premises of buildings and premises of CC1, CC2, and CC3 levels of complexity – which includes not only housing but also shopping malls and office premises within business centres.

6. A New Ministry on Veterans’ Affairs Established

On 27 December 2018 the Cabinet has issued Resolution No. [1175](#) providing legal basis for the functioning of the Ministry on Veterans’ Affairs initially established one month earlier³.

The Ministry’s concern will include veterans and their family members, affected participants of Dignity Revolution (Maidan events), and other persons considered as participants of hostilities.

Ministerial structure includes:

- Directorate for strategic planning, policy coordination, and European integration
- Directorate for healthcare, rehabilitation, and mental health
- Directorate for social protection and support
- Directorate for commemoration and cooperation with non-state institutions

Ministry’s functions:

- Simplification of existing bureaucratic procedures
- Social protection of veterans and their families
- Commemoration of deceased personnel of ‘ATO’
- Development of online governmental resources concerning needs of veterans
- Facilitation and monitoring of provision of medical services to veterans
- Apart from the central bodies the Ministry will also include territorial bodies in all the regions of Ukraine

7. Parliamentary Assembly of the Council of Europe Adopts Resolution on the Escalation of Tensions Around the Sea of Azov and the Kerch Strait and Threats to European Security

On 24 January 2019 Parliamentary Assembly of the Council of Europe (PACE) adopted Resolution [2259](#) (2019) titled ‘The escalation of tensions around the Sea of Azov and the Kerch Strait and threats to European security’.

The Resolution relates to the seizure of three Ukrainian warships and the capture of 24 Ukrainian servicemen by the Russian Border Service of the Federal Security Service on 25 November 2018. The event led to promulgation of Martial law in Ukraine on 26 December 2018, which lasted for 30 days⁴.

In the Resolution, the Assembly urges Russia to immediately release the Ukrainian servicemen and ensure they are guaranteed the necessary assistance in accordance with relevant provisions of international humanitarian law such as the Geneva Conventions.

³ See Cabinet Resolution No. [986](#) dated 28 November 2018

⁴ For more information on promulgation of Martial law in Ukraine please see DRC-DDG Legal Alert [Special Issue on Martial Law](#) and [DRC-DDG Legal Alert Issue 34](#) (November–December 2018), Section 1.

8. Draft Law No. 6240 on Election Rights of IDPs is Progressing Within the Parliament

Background: Under existing law IDPs cannot vote in local elections. IDPs, however, can vote in national elections (parliamentary and presidential Elections) if they go through a process, which has been recently simplified⁵. In Ukrainian parliamentary elections people vote for an individual as well as a political party. At present, IDPs can only vote for a party, not for an individual candidate who is meant to represent a local community in parliament. There have been attempts to develop judicial practice for including IDPs onto local community voters' registers on the basis of an IDP certificate. In July 2018 the Supreme Court blocked that possibility⁶. Establishment of an effective mechanism for IDP participation in all kinds of elections has been advocated by actors both inside and outside the country, including the Council of Europe through Resolution No [2198/2018](#).

Draft law in the parliament: Draft law No. [6240](#) was registered in the parliament on 27 March 2017 and directed to a Committee by the Speaker on 29 March 2017. On 17 January 2019, two years after its registration, the Committee has finally [reviewed](#) the draft law – refraining, however, from making any clear recommendation to the Parliament on whether to adopt it or not. Now the draft law must be included to the Parliamentary agenda to be further considered by the Parliament in the first hearing.

9. State Budget 2019 Analysis

On 1 January 2019 the [State budget 2019](#) has come in force. Table 1 shows the basic social indicators which are useful for calculation of a host of IDP social benefits that are linked to such indicators. The state budget 2019 indicators are provided in a comparison with related indicators in [2017](#) and [2018](#) budgets. All the indicators are provided in UAH.

Table 1: Basic Social Indicators in 2017-2019

Value	State Budget 2017			State Budget 2018			State Budget 2019		
	From 1 January	From 1 July	From 1 December	From 1 January	From 1 July	From 1 December	From 1 January	From 1 July	From 1 December
Living Wage	1544	1624	1700	1700	1777	1853	1853	1936	2027
Minimal Salary	3200			3723			4173		
Minimal Pension	1247	1312	1373	1373	1435	1497	1497	1564	1638

Table 2, below, provides general overview of government budgetary allocation to different Ministries and sectors that have relevance to social protection of the conflict affected people. Figures are rounded up to the nearest million/billion, UAH.

Institution or Direction of Use of Funding	State Budget 2017	State Budget 2018	State Budget 2019
Ministry of temporary occupied territories and internally displaced persons	28 million	192 million	239 million
<i>Subvention to local budgets on provision assistances for communal fees</i>	69 billion	71 billion	35 billion
<i>Subvention to local budgets on assistance to low-income families, persons with disabilities, assistance on unemployment, and some other assistances</i>	54 billion	53 billion	63 billion

⁵ For information on simplification of process for change of polling station for NGCA IDPs please see [DRC-DDG Legal Alert Issue 31](#) (September 2018), Section 6.

⁶ For information on the Supreme Court's decision regarding inclusion of an IDP to voters register on the basis of an IDP certificate please see [DRC-DDG Legal Alert Issue 30](#) (August 2018), Section 6

Ministry of Healthcare	75 billion	87 billion	98 billion
Ministry of Social Policy	146 billion	163 billion	236 billion
<i>Pension Fund</i>	134 billion	150 billion	168 billion
<i>Fund for Social Protection of People with Disabilities</i>	1,352 billion	1,644 billion	1,815 billion
<i>Subvention to local budgets on state social assistance on orphans and children deprived of parental care</i>	773 million	925 million	997 million
<i>Social protection of families, children, women, and other most vulnerable social groups</i>	91 million	100 million	95 million
<i>Provision of monthly utility benefits to IDPs</i>	3 billion	3 billion	3, billion
Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine	18 billion	15 billion	15 billion
<i>Free Legal Aid System (under the Ministry of Justice)</i>	408 million	529 million	728 million

Table 3 provides insights on government's prioritisation of housing rights of the people. Housing is considered as the most burning issue of IDPs. As noticeable in the table below, there is no dedicated funding for IDP housing. Only three lines highlighted with bold font can partly be used for IDP housing. Budget allocations for these three lines are already too small compared to other housing lines in the table. Moreover, as these three lines are for the entire country, there will be too little left for IDPs once they are distributed across the country.

Table 3: Housing-related expenses lines of the state budget in 2017-2019

Direction of the fund use	Fund size, UAH related budget lines		
	2017	2018	2019
Housing for servicemen of the armed forces of Ukraine	751 million	857 million	839 million
Expenses on orphanages and housing for orphans	277 million	517 million	717 million
Monetary housing compensation for servicemen disabled in course of their 'ATO' service or their family members in case of servicemen's decease	329 million	329 million	305 million
Housing for the National Guard Servicemen	200 million	200 million	289 million
Housing for the State Border Guard Servicemen	200 million	200 million	200 million
Housing for servicemen disabled in course of their service abroad or their family members in case of servicemen's decease	--Not allocated--	200 million	200 million
Housing for the State Security Service personnel	40 million	120 million	120 million
Funding for affordable housing	30 million	100 million	100 million
Housing for the General Directorate of Intelligence servicemen	20 million	100 million	100 million

Housing for the State Emergency Service personnel	-- not allocated --	90 million	90 million
Housing for State Foreign Intelligence Service personnel	10 million	70 million	100 million
Partial coverage of housing loans interest under social housing programmes	64 million	55 million	50 million
Housing for State Bodyguard Service personnel	40 million	40 million	40 million
Partial coverage of housing loans interest under youth housing programme	46 million	35 million	27 million
Increase of Statute Capital of the State Fund for Youth Housing Construction	28 million	30 million	29 million
Housing monetary compensation for IDP military personnel	--not provided until 2018--	25 million	25 million
Housing for the State Space Agency personnel	--not allocated--	31 million	5 million
Housing for the State Service for Special Communication personnel	1 million	1 million	18 million
Financial support to the State Fund for Support of Youth Housing Construction	7 million	7 million	7 million

Some terminology 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-DDG.

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