

# Legislative Update

UNHCR update on displacement-related legislation | February 2020

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- Extension of the list of banks that can disburse payments to IDPs

## Adopted Legislation

### Amendments to the Order on crossing the line of contact

In February 2020, the Government promulgated its Resolution #62<sup>1</sup> that introduced amendments to the Order on crossing the line of contact (LoC) in the Donetsk and Luhansk non-government-controlled areas (NGCA).<sup>2</sup> Between 1<sup>st</sup> February and 1<sup>st</sup> May 2020, children aged 14-16, irrespective of their place of residence, will be allowed to leave GCA and enter NGCA across the LoC upon presentation of their birth certificate. After 1<sup>st</sup> May, for children above 14 years old, crossing the LoC from GCA to NGCA will only be possible upon presentation of a national passport (ID card) or a passport for traveling abroad, or upon presentation of the SMS certificate confirming that the necessary documentation has been submitted for the issuance of such documents. This is the case for children above 14 years old even if they reside permanently in NGCA. At the same time, children aged 14-16 who do not possess a national ID or a passport for traveling abroad will be allowed to enter GCA across the LoC upon presentation of a birth certificate at any moment for a purpose to obtain national ID. No changes have been introduced into the rules for children above 16 years old.<sup>3</sup>

The procedures have also been simplified for adults residing in NGCA and who do not possess<sup>4</sup> Ukrainian passports. They are allowed to cross the LoC from NGCA to GCA based on any document confirming their identity. They may travel from GCA to NGCA with a State Migration Service certificate confirming the submission of documents for the issuance of a passport (ID card).

<sup>1</sup> The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/62-2020-%D0%BF>

<sup>2</sup> The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/815-2019-%D0%BF>

<sup>3</sup> Please see more details in 2019 UNHCR Legislative Update for November available online:

<https://www.humanitarianresponse.info/en/operations/ukraine/document/unhcr-legislative-update-november-2019-%D1%83%D0%B2%D0%BA%D0%B1-%D0%BE%D0%BE%D0%BD-%D0%BE%D0%B3%D0%BB%D1%8F%D0%B4-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D0%B2%D1%81%D1%82%D0%B2%D0%B0-%D1%89%D0%BE%D0%B4%D0%BE>

<sup>4</sup> Their Ukrainian passports have been stolen or lost. Additionally, these persons could not receive Ukrainian passports due to staying in territories outside Ukrainian control

### Increased average housing rent price

On 19 February, the Government adopted its Resolution #121<sup>5</sup> aimed at increasing the volume of the minimum income per household which would allow them to apply for social housing. Previously, the level of minimum income per family member established by the Government as a criterion to apply for social housing was so low that the cumulative generated income per household was usually higher than the minimum threshold. This situation was preventing most of the vulnerable households from applying for social housing. However, this change does not address the issue of the lack of social housing stock. The number of potential applicants will only rise. This resolution does not introduce any mechanism to augment the social housing stock, for instance through a re-classification procedure for some premises in the available housing stock or by envisaging the refurbishment of worn out premises.

### Free meals for IDP children

On 18 February 2020, the President signed the law #474-IX<sup>6</sup> entitling IDP children to receive free meals in all types of educational facilities (kindergartens, schools, colleges and universities). First drafted in 2015, the initiative aimed to assist the newly displaced population to resolve some immediate humanitarian concerns. In 2020, in the phase of protracted displacement such an initiative does not contribute to reaching sustainability for the displaced population, as it is status based instead of needs based. Additionally, it can create imbalances in benefits in comparison to other categories of citizens of Ukraine and thus raising tensions among economically vulnerable and displaced population. Linking more benefits to IDP registration does not help ending displacement, but rather prolongs it. UNHCR would like to call on the government to build displacement related policies with a view of finding durable solutions for IDPs.

## Draft legislation

### Amendments to the Law on temporary measures for the ATO period

On 3 February, the draft law #2830<sup>7</sup> suggesting amendments to the Law on temporary measures during the Anti-Terrorist Operation (ATO) period was registered in the Parliament.

It proposes extending the temporary measures applicable during the ATO period to the Joint Forces Operation (JFO) period. As a reminder, the JFO period started on 30 April 2018<sup>8</sup>.

The draft law also suggests cancelling forfeits and interest rates under the credit and loan agreements concluded during the ATO/JFO period for individuals and legal entities remaining in or displaced from the ATO/JFO area. Displaced educational institutions should be temporary exempted from paying loan-related debts for the ATO/JFO period after the Ministry of Education confirms their displacement. The latter would require some additional steps from the Ministry of Education.

### Establishing a National Agency of Ukraine to address the consequences of the Russian Federation armed aggression

<sup>5</sup> The full text available online (in Ukrainian): [https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-poryadku-viznachennya-velichini-oposeredkovanoyi-vartosti-najmannyia-orendi-zhitla-v-naselenomu-punkti-i190220-121?fbclid=IwAR1OYqh0tK36TRHfaL9c65jp5u9\\_rFMm8b55ldrAskCF\\_OJDZKPbueTCvWo](https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-poryadku-viznachennya-velichini-oposeredkovanoyi-vartosti-najmannyia-orendi-zhitla-v-naselenomu-punkti-i190220-121?fbclid=IwAR1OYqh0tK36TRHfaL9c65jp5u9_rFMm8b55ldrAskCF_OJDZKPbueTCvWo)

<sup>6</sup> The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/main/474-IX>

<sup>7</sup> The full text available online (in Ukrainian): [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68028](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68028)

<sup>8</sup> Respective Presidential Order was adopted on 30 April 2018: <https://www.president.gov.ua/documents/1162018-24086>. Please see more details in 2018 UNHCR Legislative Update for April available online: <https://www.unhcr.org/ua/wp-content/uploads/sites/38/2018/05/2018-04-UNHCR-UKRAINE-Legislative-Update-FINAL-EN.pdf>

On 11 February, MP registered in the Verkhovna Rada the draft law #3057<sup>9</sup> suggesting to create the National Agency of Ukraine (the Agency) on addressing consequences of the Russian Federation armed aggression.<sup>10</sup> The Agency is to be coordinated by the Government and its main functions would encompass:

- unifying Ukraine's legal position on the Russian Federation armed aggression;
- fulfilling a corresponding evidence database as well as a database on crimes against humanity and war crimes;
- assessing the number of damages caused by the Russian Federation armed aggression to Ukraine, its citizens and legal entities;
- preparing a draft consolidated claim to the Russian Federation to be approved by the Government.

The draft initiative will contribute towards identification of Ukraine's future position. However, it may duplicate the activity of the Inter-agency Commission on preparing the consolidated claim to the Russian Federation created in December 2018<sup>11</sup> as well as other state bodies involved in relevant international judicial and arbitral proceedings. It also does not identify any international body to which the claim will be submitted.

### Exemption of payment of tourist fees for IDPs residing in some collective centres

On 21 February, MPs registered the draft law #3103<sup>12</sup> that amends Article 268 of the Tax Code to exempt IDPs residing in collective centres from payment of a tourist fee. This initiative is necessitated by the fact that, currently<sup>13</sup>, the local authorities are collecting a tourist fee for persons staying in hotels and in other institutions of similar type. The tourist fee amounts to 0,5% of the minimum wage per day.<sup>14</sup> Some collective centres hosting IDPs with already limited resources are sanatoria or hotels bound by these regulations. This contributed to increase the level of vulnerability of IDPs residing in those centres and raising tensions with the owners of those institutions. This is a timely intervention that shall result in ensuring that the overall situation of IDPs in collective centres does not deteriorate further. However, UNHCR would like to remind that this should not be the only measure taken to support IDPs living in collective centres and there is a need to identify durable housing solutions for them.

### Extending the list of banks that can disburse payment to IDPs

In mid-February,<sup>15</sup> the Ministry for Social Policy placed on its webpage, for public discussion, a suggestion to extend the list of banks that can pay pensions and social benefits to IDPs. The Ministry proposes that, apart from "Oshchadbank", other banks could be authorised to process state financed benefits for IDPs. The financial and administrative requirements are listed in the draft regulation. UNHCR welcomes this positive development which shall allow IDPs to chose among multiple bank institutions and reduce discrimination.

## Other developments

### Accession to the Protocol II to the Hague Convention on Cultural Property

On 4 February, the President registered in the Verkhovna Rada the draft law #0036<sup>16</sup> proposing Ukraine's accession to the Protocol II to the 1954 Hague Convention for the Protection of Cultural Property in the Event

<sup>9</sup> The full text available online (in Ukrainian): [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68126](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68126)

<sup>10</sup> The terminology is quoted from the official legal act and does not reflect UNHCR's position

<sup>11</sup> Please see more details in 2018 UNHCR Legislative Update for December available online: <https://www.refworld.org/docid/5c5021647.html>

<sup>12</sup> The full text available online (in Ukrainian): [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68204](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68204)

<sup>13</sup> Following amendments to the Tax Code on 23 November 2018

<sup>14</sup> Since the current minimum wage is 4723 UAH per month, such "tourist fee" would constitute almost 24 UAH per day or over 700 UAH per month of stay in addition to any fees that residents of collective centers cover.

<sup>15</sup> The draft in Ukrainian is available: <https://www.msp.gov.ua/projects/545/>

<sup>16</sup> The full text available online (in Ukrainian): [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68039](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68039)

of Armed Conflict (the Hague Convention on Cultural Property). This initiative reflects an intention of full compliance with international humanitarian law (IHL) and is expected to enhance the protection of cultural property sights on the territory of Ukraine.

### Pensions to conflict-affected population

On 14 February, MPs registered in the Verkhovna Rada another draft law #2083-1<sup>17</sup>, suggesting the introduction of a mechanism for the payment of pensions to conflict-affected persons. Its content mirrors the draft initiative #2083-d registered in November 2019.<sup>18</sup> The elaboration process is ongoing.

## CONTACTS

**E-MAIL: UKRKI@UNHCR.ORG, TEL: +38 044 288-9710**

## LINKS

UNHCR Ukraine: [www.unhcr.org.ua/en](http://www.unhcr.org.ua/en) - Twitter: [www.twitter.com/UNHCRUkraine](https://www.twitter.com/UNHCRUkraine)

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<sup>17</sup> The full text available online (in Ukrainian): [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68151](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68151)

<sup>18</sup> Please see more details in 2019 UNHCR Legislative Update for November available online:

<https://www.humanitarianresponse.info/en/operations/ukraine/document/unhcr-legislative-update-november-2019-%D1%83%D0%B2%D0%BA%D0%B1-%D0%BE%D0%BE%D0%BD-%D0%BE%D0%B3%D0%BB%D1%8F%D0%B4-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D0%B2%D1%81%D1%82%D0%B2%D0%B0-%D1%89%D0%BE%D0%B4%D0%BE>