

Legislative Update

UNHCR update on displacement-related legislation | June 2019

Adopted Legislation

- Crossing the administrative border with Crimea for obtaining IDs
- Free of charge services for persons living with HIV
- Subventions to local budgets for housing support
- Amendments to the 2019 Pension Fund budget

Draft Legislation

- Civil confiscation of property belonging to NGCA residents with Russian citizenship

Other developments

- Provision of medical assistance to survivors of domestic violence

Adopted legislation

Crossing the administrative border with Crimea for obtaining IDs

On 5 June, the Government adopted its Resolution #474¹ introducing amendments to the Order on crossing the administrative border with “the temporarily occupied territory (TOT) of Crimea”. These amendments specify the procedure of entering mainland Ukraine with the purpose of obtaining a national passport (ID card) or an international passport (for traveling abroad). When returning to Crimea after having applied to a department of the State Migration Service (SMS) of Ukraine for any type of passport, a person shall provide the State Border Guard Service of Ukraine (SBGS) with the certificate confirming his/her application for a passport in the SMS department. This certificate shall be a ground for crossing the administrative border with Crimea in case there are no other identity documents. In case of children below 16 years of age accompanied by a parent or another responsible adult, the SBGS shall let them enter mainland Ukraine based on the birth certificate of a child and a passport document² of the accompanying adult. In case of a minor travelling alone, the SBGS shall allow him/her passing to mainland Ukraine and shall notify the National Police; the latter shall refer the minor to a social protection body responsible for children. It is unclear how a referral to the guardianship authorities would affect the movement possibilities of the unaccompanied minor. Under the current legislation, when identified by the guardianship authorities an unaccompanied minor shall be placed for the institutional care until the age of 18. There is no separate procedure for residents of Crimea. Therefore, there is a risk of such minors not being able to return to Crimea after applying for the passport.

Free of charge services for persons living with HIV

On 12 June, the Government adopted its Resolution #497³ introducing free of charge services for persons living with HIV. Awareness raising should be conducted among individuals under high risk of HIV infection regarding available opportunities for the free of charge services (including medicines and syringes), including treatment and

¹ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-ku-vyizdu-na-timchasovo-okupovanu-teritoriyu-ukrayini-ta-vijzdu-z-neyi>

² In case of a responsible adult different from a parent, documents proving guardianship/custodianship or family relations are necessary.

³ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/deyaki-pitannya-hadannya-poslug-predstavnikam-grup-pidvishchenogo-riziku-shchodo-infikovannya-vil-ta-lyudyam-yaki-zhivut-z-vil-i120619>

support to those living with HIV. These measures include accessibility of HIV-specific medical services to companions of persons living with HIV, ensuring general awareness regarding available HIV treatment and promoting that drug addicts regularly use medical services. The Ministry of Health should elaborate detailed orders on provision of such services. In case of clear legislative framework and proper financial support, the Resolution would enhance the protection of persons living with HIV. This might be of specific importance for persons living with HIV residing along the line of contact. The Resolution has no specific provisions regarding residents of NGCA.

Subventions to local budgets for housing support

On 12 June, the Government adopted two Decrees specifying the amount of subventions to local budgets from the state budget to support housing solutions for conflict-affected population. The Decree #418-p⁴ allocates 24 860 289 UAH for compensations to former combatants from among IDPs⁵ with the third group of disability. The Decree #421-p⁶ introduces housing compensations to family members of those injured⁷ during the direct participation in the ATO/JFO amounting to 305 057 558 UAH.

Amendments to the 2019 Pension Fund budget

On 26 June, the Government adopted its Resolution #544⁸, amending figures of the 2019 Pension Fund budget. The amendments double the initial amount allocated to cover pension-related payments under the relevant judicial decisions. Now the available budget allocation to cover pension arrears amounts to 100 million UAH.

It is not clear whether the increased budget would cover IDP-related pension debts under the court decisions. The Government still has not adopted a resolution on the payment of accumulated debts to IDPs under court decisions, as expected under Resolution #335 (May 2018).

Draft legislation

Civil confiscation of property belonging to NGCA residents who obtained Russian citizenship

On 4 June, members of Parliament registered in the Verkhovna Rada the draft law #10363⁹, allowing civil confiscation of property belonging to persons residing in the non-government controlled area (NGCA) of Donetsk and Luhansk oblasts in case they obtain the citizenship of the Russian Federation. Under the “confiscation” the draft means deprivation of property rights under a court decision with the next transfer of such property to the State (movable property) ownership or ownership of local councils (immovable property). The Government should elaborate a special order of civil confiscation.

The draft initiative raises several concerns. It suggests punishment for obtaining citizenship of a foreign state in violation of both national legislation and international standards. It does not specify the legal grounds for such punishment, referring to a non-existing procedure without indicating any time frame for their elaboration. Furthermore, the draft initiative does not envisage any procedure allowing to verify whether a person concerned actually resides in NGCA and whether (s)he obtained Russian citizenship. This may result in numerous cases of arbitrary civil confiscation of movable and immovable property belonging to persons registered in the Donetsk

⁴ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-zatverdzhennya-rozpodilu-deyakih-vidatkiv-derzhavnogo-byudzhetu-peredbacheni-ministerstvu-socialnoyi-politiki-na-2019-rik-i120619>

⁵ IDPs, who participated in the Anti-Terrorist Operation (ATO)/ Joint Forces Operation (JFO).

⁶ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-rozpodil-deyakih-vidatkiv-derzhavnogo-byudzhetu-peredbacheni-t120619>

⁷ The Decree covers those wounded, contused, maimed or illness obtained during their participation in the ATO/JFO.

⁸ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-byudzhetu-pensijnogo-fondu-ukrayini-t260619>

⁹ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66042

and Luhansk oblasts, regardless of their actual place of residence. Such initiative may undermine social cohesion efforts, raise fears among residents of NGCA and break existing links with persons residing in these territories.

Other developments

Provision of medical assistance to survivors of domestic violence

On 19 June, the Ministry of Health promulgated its Order¹⁰ on providing medical assistance to survivors of incidents of domestic violence. Apart from specifying the available medical assistance, the Order describes behavioural characteristics, which may indicate that a person could have been affected by an incident of domestic violence. It also contributes to raising awareness about domestic violence among students of medical universities through introducing a course on examining and providing medical assistance to survivors. Implementation of the Order shall have a positive effect on the work with instances of domestic violence and thus strengthen the protection of survivors and boost the provision of services to them.

CONTACTS

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

LINKS

UNHCR Ukraine: www.unhcr.org.ua/en - Twitter: www.twitter.com/UNHCRUkraine

Facebook: www.facebook.com/UNHCRKyiv - Flickr: www.flickr.com/photos/unhcr_ukraine

¹⁰ The full text available online (in Ukrainian): http://search.ligazakon.ua/l_doc2.nsf/link1/RE33233.html