

Legislative Update

UNHCR update on displacement-related legislation | November 2019

Adopted Legislation

- Amendments to the Government Resolution #815 on crossing of the line of contact
- List of goods prohibited for transfer through the line of contact

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- Temporary measures for ensuring payment capacity of enterprises previously functioning in Donetsk and Luhansk NGCA
- Amendments to the Law on special self-government regime in Donetsk and Luhansk NGCA
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Adopted legislation

Amendments to the Government Resolution #815 on crossing the line of contact

On 20 November, the Government adopted its Resolution #953¹, introducing amendments to the Resolution #815 on crossing the line of contact (LoC)². These amendments allow children below the age of 14 to cross the LoC with a birth certificate or a passport for travelling abroad. Children aged 14-16 may cross the LoC with an ID card or a passport for travelling abroad. Those children who do not possess a Ukrainian birth certificate may leave the non-government controlled areas of the Donetsk and Luhansk oblasts (NGCA) with documents confirming the fact of birth issued by *de-facto* authorities in accompaniment of a parent or another responsible adult who has a valid Ukrainian identification document.

Those residing in NGCA who do not possess a Ukrainian passport (an ID or a passport for travelling abroad) for different reasons³ may leave NGCA with any document they have for the purpose of approaching the State Migration Service (SMS) for issuance of an identity document. They may return to NGCA across the LoC upon showing a certificate issued by a department of the SMS confirming the application for an ID or passport for travelling abroad.

It should be reminded that the above changes were introduced in response to multiple requests from conflict-affected population and civil society organizations pointing to risks existing for children's crossing the LoC in the previous version of the Resolution 815. After the adoption of the above amendments, certain risks were lifted. Still, after the start of implementation of the amended resolution, partners of UNHCR have received alerts on restricted application of these particular provisions related to children aged 14-16 travelling from NGCA. UNHCR and its partners will continue monitoring the implementation of the Resolution 815.

¹ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-poryadku-vyizdu-osib-peremishchennya-tovariv-na-timchasovo-okupovani-teritoriyi-u-doneckij-ta-luganskij-oblastyah-953201119>

² Detailed description of its content is available in 2019 Legislative Updates for July and August. The full text available online in Ukrainian: https://www.unhcr.org/ua/wp-content/uploads/sites/38/2019/09/2019-08-Legislative-Update_Ukr.pdf and in English: https://reliefweb.int/sites/reliefweb.int/files/resources/2019_08_legislative_update_eng.pdf

³ The list of reasons include lack of possibility to obtain Ukrainian passport due to constant residing in NGCA, loss of passport or passport stealing

List of goods prohibited for transfer through the line of contact

On 28 November, the Ministry for Veterans, Temporarily Occupied Territories and IDPs promulgated its Order #92⁴, introducing the list of goods prohibited or limited for transfer through the line of contact. This Order has been elaborated in close consultations with international organizations and NGOs.

The list of prohibited items includes weapons, dual-use goods, military-use goods, drugs already prohibited for use by virtue of thematic Government Resolution #770 of 6 May 2000, electric fishing pods, hunting traps, illegal technical equipment for espionage, explosives, coins, ingots, fuels, agitation materials, drones and cultural property. The list of limited items includes payment cards (maximum three items without a photo), tyres (maximum four items of 16 inches' diameter), cigarettes (maximum 200 items) and alcohol. Moreover, the Order allows transfer of 50000 UAH from NGCA to GCA and 20000 UAH from GCA to NGCA (also in foreign currency).

UNHCR welcomes the introduction of prohibition-approach instead of the previously existing allowance-approach with exhaustive lists of allowed goods that had to be established. Simultaneously, this Order requires monitoring of its implementation.

Draft legislation

Temporary measures for ensuring payment capacity of enterprises previously functioning in Donetsk and Luhansk NGCA

On 4 November, MPs registered in the Verkhovna Rada the draft law #2374⁵, suggesting temporary suspension of enforcement proceedings (conducted by the State Executive Service) against enterprises which had been functioning or located in Donetsk or Luhansk NGCA prior to 14 April 2014 (date of the launch of the Anti-Terrorist Operation (ATO)). In particular, the draft contains provisions aimed at lifting sanctions such as property arrest or alienation. Meanwhile, obligations on paying salaries and other compensations to employees, as well as contributions related to state social insurance remain in force. These enterprises would not fall under any bankruptcy proceedings, either started or lasting. The suggested temporary measures would expire on 1 January 2022. Their enforcement may result in the timely payment of salaries to employees of the respective enterprises and thus supporting their economic capacity. However, it is not clear on how the situation is expected to change in 2022 and which measures might be adopted then.

Amendments to the Law on special self-government regime in Donetsk and Luhansk NGCA

On 22 November, MPs registered in the Verkhovna Rada the draft law #2491⁶, introducing amendments to the Law on special self-government regime in Donetsk and Luhansk NGCA ("the Law"). The authors suggest that the Law should regulate every aspect of the self-government regime, apart from the electoral process that is expected to take place after Ukraine's regaining of control over NGCA. The Parliament shall elaborate a special law on extraordinary elections in these territories. In terms of the Law's validity, the authors suggest that it temporarily enters into force as of 20:00 on the day of extraordinary elections in Donetsk and Luhansk NGCA. It would temporarily remain in force until the OSCE Office for Democratic Institutions and Human Rights (ODIHR) issues its report on such elections. In case the ODIHR's report positively assesses the extraordinary elections as corresponding to international standards and Ukrainian legislation, the Law would enter into full force. The

⁴ The full text available online (in Ukrainian): https://mva.gov.ua/ua/npa/nakaz_minveteraniv_18_11_2019_92

⁵ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67274

⁶ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67464

authors suggest no rules with regard to the Law's validity if ODIHR would not recognize elections democratic and up to standards. Nevertheless, the currently existing time limits that require annual prolongation of the Law are proposed to be taken out of the current version of the draft.

Paying pensions to conflict-affected population

On 26 November, MPs registered in the Verkhovna Rada draft law #2083-d⁷, suggesting a mechanism on paying pensions to conflict-affected population. This draft delinks access to pensions from IDP registration. This would allow residents of NGCA to apply for pension in any pension department at the controlled territory. Physical identification in a bank shall be conducted every three months. This would lift excessive verification procedures from genuine registered IDPs. At the same time, IDPs who revoked their certificates would receive their pensions based on the data available in respective e-registries. The accumulated pension arrears would be paid in instalments with the first one amounting to the maximum of the sum of the annual pension payment.

UNHCR welcomes this initiative and will continue advocating for its adoption in the first reading and as a final text.

Other developments

Long-term mortgage loans under 3% interest rate for IDPs and ATO/JFO participants

On 27 November, the Government adopted its Order on the disbursement of funds⁸ under a new budgetary programme on preferential long-term mortgage loans to IDPs and ATO/Joint Forces Operation (JFO) participants. Its total budget – 200 million UAH – is equally divided between IDPs and ATO/JFO participants. The Ministry for Development of Communities and Territories allocates respective financial contributions to oblasts depending on the number of the submitted applications. A special commission at the Ministry will distribute the loans among the applicants.

The loan would be granted for 20 years with a 3% interest rate for purchasing a flat in a multi-storeyed building or a single-flat house. The participants will select the housing options themselves. A borrower should pay at least 6% of the housing cost at the time of signing the loan agreement.

This initiative may satisfy housing needs of those IDPs, who are able to cover the first instalment and have stable income to pay off the loan.

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⁷ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67473

⁸ The summary available online: <https://mva.gov.ua/ua/news/uryad-zatverdiv-poryadok-nadannya-derzhavnogo-pilgovogo-kreditu-na-privbannya-zhitla-vpo-ta-uchasnikami-atoos>