

## Legislative Update

Update on Displacement-related Legislation | July-August 2024



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## Adopted Legislation

### Residential Care and Assisted Living Pilot

On 6 August 2024, the Government of Ukraine adopted [Resolution #888](#), launching a pilot project to provide **residential care** and **assisted living services**<sup>1</sup> for elderly IDPs and people with disabilities, introducing the 'money follows the person' model.

The pilot will be implemented through December 31, 2025, in cooperation with the Ministry of Social Policy (MoSP) – the primary coordinator of the programme, alongside with the Fund of Social Protection of Persons with Disabilities (the Fund), the National Social Service (NSS), and local authorities, including departments of social protection (DoSP). The Oblast Military (State) Administration will also be engaged, focusing on capacity-building activities to strengthen the ability of service providers to deliver services effectively.

#### ➤ Social Service Providers

Under the existing legal framework for social protection, residential care and assisted living services should be provided only by social service providers (SSPs), either as legal entities or self-employed individuals, as defined by the Law on Social Services. These SSPs must be registered accordingly in the Register of Social Service Providers.

To participate in the pilot program, SSPs must submit applications to the NSS, which will assess the SSP and determine whether to authorize them as participants in the pilot. The NSS conducts this assessment within five business days. A decision will be communicated to the applicant within the next three business days.

Upon receiving the NSS positive decision, the applicant submits it to the Fund as part of their application to participate in the pilot.

Within the next five business days, the Fund reviews the application alongside the NSS approval and compiles a list of SSPs selected for the pilot. This list will be published on the Fund's website.

#### ➤ Standards for residential care and assisted living services to be met by SSPs:

- **Location:** Services should be accessible within 5 km walking or 20 km driving distance to medical, rehabilitation, or educational facilities.

<sup>1</sup> Both, **assisted living** and **residential care** are distinct social services provided by social service providers based on a signed contract following an individual needs assessment. Each service adheres to specific standards: the [State Standard for Assisted Living](#) and the [State Standard for Residential Care](#), both introduced by orders of the Ministry of Social Policy.

**Key activities of Assisted Living** include housing, developing independent living skills, organizing daily routines and medical care, household assistance (shopping, meal prep, cleaning), representing interests, coordinating with professionals, and providing social protection information and legal aid. Services are tailored to individual needs and detailed in an Individual Plan.

**Main activities of Residential Care** include accommodation, meals, assistance with personal hygiene and self-care, health monitoring and medical care (as prescribed), rehabilitation services, and organizing daily activities, leisure, and psychological support.

- **Public transport accessibility:** In urban areas, the nearest public transport stop should not exceed 800 meters ; in rural areas, services must be accessible by passenger transport.
  - **Capacity:** No more than 35 people for residential care and 8 for assisted living services.
  - **Accommodation:** Single rooms, or double if this is a resident's preferential option.
  - **Leisure:** Dedicated space for recreation.
  - **Self-sufficiency:** Assisted living services must be organized in a way to enable residents to cook, eat and do laundry independently.
  - **Payments:** POS terminals must be available for service payments.
- Eligibility and Receipt of Assistance

Eligible beneficiaries include elderly IDPs and people with disabilities who (i) have fled their permanent residence in occupied territories or areas affected by hostilities, or (ii) whose homes have been destroyed or damaged to the point of being uninhabitable due to the war, with information recorded in the State Registry of Damaged or Destroyed Property.

Individuals in need of services must apply to the **responsible authority (DoSP)** in their local area, regardless of their IDP registration<sup>2</sup>.

Upon application, the DoSP will assign a social manager or social worker to assist the applicant. The resolution specifies that if the applicant is unable to submit the application in person due to medical reasons, a representative from the responsible authority will visit their residence to collect the application.

Along with the application, the applicant must provide the following documents:

- Passport (this may be a Ukrainian citizen passport, foreign national's passport, temporary citizen certificate, asylum seeker certificate, refugee/ complementary protection/ stateless person certificate, or permanent/ temporary residence permit);
- Taxpayer identification number;
- Medical-Social Expert Commission (MSEC) assessment – a copy of this document should be attached to the application for individuals with disabilities.

Within five business days of receiving the application, the **DoSP**:

- Confirms whether the applicant is an IDP and checks relevant databases for information on destroyed or damaged housing in the Register.
- Assesses the individual's social service needs at their place of residence/stay, according to the state standards for social services set by the Ministry of Social Policy.
- Verifies the number of individuals who can be funded under the project based on monthly updates from the Fund's website. If funds are unavailable, the applicant will be denied services under the project; however, the authorized body must still ensure they receive necessary social services, which can be funded through sources outside the pilot program. Upon request, the application may be reconsidered the following month.
- Evaluate cases where the applicant's legally responsible relatives are unable to provide support (e.g. if an elderly person has children who are unable to provide support due to military service, displacement, etc.).

The resolution calls for a comprehensive assessment of individual needs, evaluating both physical abilities and mental capacity, in order to determine eligibility for social services, either **residential care** or **assisted living**. A scoring system will be used to qualify individuals for the pilot program. This includes various groups such as elderly people with disabilities, elderly people with cognitive impairments, people with disabilities, and individuals with intellectual or mental impairments. The evaluation will be based on criteria such as nutrition, personal hygiene, health, household maintenance, legal awareness, safety and emergency behaviour, interpersonal relationships, and other relevant factors.

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<sup>2</sup> The resolution stipulates that the absence of an IDP certificate shall not constitute grounds for a denial of services

If an individual scores above the qualifying threshold according to the system, they will be deemed not eligible for the program. If they do qualify, a designated representative from the **DoSP** provides them with a list of available social services and assists in selecting the most suitable option, if needed. At this stage, the DoSP representative will compile a decision on granting or not granting support under the pilot. The DoSP will authorize the decision of its representative within two business days.

The **DoSP** will be responsible for sending the decision to both the applicant and the SSP, facilitating coordination between them, assisting with signing the contract for providing social services under the pilot program, and helping the applicant open a bank account with a special usage regime.

According to social service provision standards, the SSP also compiles an individual plan for each beneficiary's social services. In line with the "money follows the person" principle, funds for these services will be transferred by the Fund directly to the beneficiary's bank account. These accounts must operate under a special usage regime, as the assistance may not be used for any other purpose. They cannot receive funds from any other source, and cash withdrawals are not allowed. Beneficiaries will use the funds in these accounts to pay directly for the services provided.

A contract can be signed for any duration within the active period of the pilot. The price of the social services may exceed the amount covered by the pilot programme; in such cases, beneficiaries are responsible for paying any excess amount.

### Coordination Centres on Evacuations

On 9 August 2024, the Government adopted [Resolution #911](#), amending the existing framework on evacuations and establishing the coordination centers on evacuations.

The Coordination Center for Evacuation and Effective Response to Mass Population Displacement<sup>3</sup> (*hereinafter referred to as "the coordination center" or simply "the center"*) is a temporary advisory body established to facilitate interagency coordination among central and local executive authorities, other state bodies, local self-government, military, and civil society organizations. Its primary purpose is to support the organization of evacuations and coordinate an effective response to mass population displacement, while also promoting cooperation and resource sharing.

Centers are established at three levels: national (by the Government<sup>4</sup>), regional (by oblast administrations), and local (by raion-level administrations). Each level of center coordinates the activities of the one below it.

The center functions alongside other entities involved in evacuations. Its key tasks include:

- Facilitating coordination between central and local authorities, other state bodies, local self-governments, military, and civil society organizations in organizing evacuations and responding to mass displacement.
- Identifying solutions to issues arising during evacuation and mass displacement.
- Gathering and sharing best practices on organizing evacuations at the relevant level.
- Informing the population, including those using personal transport, about evacuation plans, such as the time, location, and available transportation options. Additionally, the centers inform evacuees about collective sites for IDPs, specialized facilities, available social protection and support, opportunities in host communities, and the return process.

### Rome Statute

On 21 August 2024, the Parliament of Ukraine adopted [Law #3909-IX](#) ratifying the [Rome Statute](#) of International Criminal Court (ICC).

The ICC is a permanent institution with the authority to prosecute individuals for the most serious crimes, including:

- genocide,

<sup>3</sup> In the context of this resolution, the **response to mass population displacement** is limited to addressing immediate needs, such as coordinating evacuations, managing the involved actors, and ensuring the safe and organized movement of displaced persons. However, it does not encompass the subsequent placement of evacuees, their long-term integration, or continued support following their relocation.

<sup>4</sup> The Coordination Center at the central level will be established and governed by a forthcoming Government Resolution. The details regarding its leadership and participants are expected to be outlined in this Resolution.

- crimes against humanity,
- war crimes,
- the crime of aggression.

The ICC's jurisdiction is complementary to national criminal systems.

However, the ratification alone does not bring the Statute into force. The enforcement of the law, and thus the ICC's jurisdiction over Ukraine, will only commence following the deposit of the instrument of ratification with the Secretary-General of the United Nations.

The law contains a reservation: The Court will have no jurisdiction over alleged crimes committed by Ukrainian citizens for seven years from the date the Statute comes into force for Ukraine.

Ratification is also a mandatory requirement for Ukraine's EU accession process.

### Subsistence allowance

On 30 August 2024, the Government adopted [Resolution #989](#), extending the payment of the IDP subsistence allowance for an additional six months. This extension will be applied automatically to individuals who continue to meet the criteria outlined in the resolution<sup>5</sup>.

During the first month following the extension, the DoSP will verify whether recipients still meet the eligibility criteria and may terminate the assistance if they do not. If the extension is not applied automatically but the individual remains eligible, they may submit an application to receive the payments. Furthermore, if a DoSP employee identifies an eligible individual who has not received assistance during the review of the recipient database, payments can be granted retroactively, starting no earlier than 1 March 2024.

The Resolution introduces slight changes to the procedure for appealing decisions made by the DoSP. Appeals can be made through:

- **Administrative procedure:** Filing an application directly with the DoSP.
- **NSS:** A special administrative appeal through the NSS, which operates under the MoSP and oversees social services.
- **Court:** Exercising the constitutional right to judicial review.

The Resolution now specifies that administrative appeals via DoSP system will be governed by the [Law on Administrative Procedure](#), which aims to enhance the transparency and participatory nature of the process<sup>6</sup>. Though appeals via the NSS may be considered administrative by nature, the two procedures are categorized separately.

## Other developments

### Identification and return of the children deported or forcibly displaced

Following the adoption of [Resolution #551](#), concerning the identification and return of children who were deported or forcibly displaced due to the war<sup>7</sup>, the Ministry of Reintegration also issued a series of orders. These orders are intended to regulate various processes within the complex mechanism of providing ongoing support to children after their return. Each order focuses on specific aspects of care, ensuring that the necessary steps are in place to address the children's needs and facilitate their reintegration.

[Order #183](#) establishes the unified format for an individual return plan for a child. This plan consists of 27 sections designed to gather detailed information necessary for accurately identifying the child and eventual specific needs. These sections include data on the child's identity, social and medical needs, as well as information about their legal representatives.

<sup>5</sup> Please read more in [UNHCR Thematic Legislative Update](#)

<sup>6</sup> Please read more in [UNHCR Legislative Update for December 2023](#)

<sup>7</sup> Please read more in the [UNHCR Legislative Update for May-June](#)

**Order #185** regulates the procedure for assessing a returned child's housing needs and determining if required rent costs will be covered by the state budget. As a post-return support measure, the state will fund the rent only if the child's or their legal representative's housing is located in occupied territories, or has been destroyed or damaged, and there is no other housing solutions. In such cases, upon the child's return, the Ministry of Reintegration must submit a letter to the Child Protection Service requesting an assessment of the child's living conditions and housing. This request must be submitted within three days of the child's return.

### **"Barnahus" pilot**

On 26 July 2024, the Ministry of Justice, the Ministry of Internal Affairs, the Ministry of Social Policy, the Ministry of Health, and the Office of the Prosecutor General jointly issued **Order # 2218/5/180/523/352-H/1306**, launching a pilot project to establish Child Protection Centers based on the Barnahus model (*hereafter referred to as "Barnahus centers" or simply "centers"*). While the Barnahus model is not new to Ukraine<sup>8</sup>, with several centers already operational alongside Green Rooms<sup>9</sup>, this pilot project aims to standardise practices across all centers.

The Barnahus center is a multidisciplinary specialized facility or a structural unit within another facility. These centers are designed to conduct specific investigative (procedural) actions in accordance with the Code of Criminal Procedure. Operating in a child-friendly environment, the centers are intended to minimize trauma and provide comprehensive social, psychological, legal, pre-medical, and other forms of support to children who are victims or witnesses of criminal offenses.

While the Code of Criminal Procedure includes provisions to protect children's rights, full alignment with international standards of child-friendly justice is still underway. The Prosecutor General's Office has introduced **Order #150/445/2077/5/187**, outlining key standards for a more child-centered approach in the justice system. However, the complete implementation of these standards is still in progress.

The core goal of these centers is to prioritize the best interests of the child during criminal investigations. While general principles of criminal procedure apply, special attention is given to aligning with child welfare principles, ensuring that children's rights are protected in the process. This guarantees that children are heard, their interests are safeguarded, and the investigation is conducted in a child-friendly atmosphere to avoid retraumatization.

A child may be referred and escorted to the centers with either their legal representative's or their own consent by the National Police, any law enforcement body involved in the investigation, state authorities, or even by a trusted individual. No family relationship is required for this referral. If the center is fully equipped, it can host people all day long and operates on weekends as well.

Upon arrival at the center, during the initial meeting, both the child and their legal representative are informed about the available services, including secondary legal and medical assistance. The procedural actions to be taken in the investigation are explained, and written materials are provided. It is essential that all explanations are made in an age-appropriate manner, ensuring the child fully understands the process.

Key roles of the center include:

- The coordinator ensures that the legal representative provides necessary documents and applications and assists with contacting the Free Legal Aid Center (FLAC) in cases a child has no attorney<sup>10</sup>.
- The center ensures the medical examination of the child.
- The psychologist assesses the child's psychological conditions and reports on the suitability of investigative measures, including necessary adaptations based on the child's age, maturity, cultural background, special needs, disability, or language. The results are shared with the investigator, inquiry officer, prosecutor, and interdisciplinary team. If possible, the psychologist who assessed a child and accommodated them in the centre takes part in the investigative measures.

<sup>8</sup> You can read more on the Barnahus model in Ukraine [here](#) (in Ukrainian)

<sup>9</sup> **Green Room** – A method used in criminal cases involving children to conduct specific investigative or procedural actions, such as questioning a witness or conducting an expert evaluation. This method ensures that the child is in a safe environment, accompanied by a safe adult, to minimize stress and anxiety. The Green Room consists of two separate rooms within a specialized facility, designed to protect the child's well-being during the investigative process.

<sup>10</sup> Under the Law on [Free Legal Assistance](#), children have the right to free legal aid in all services provided by FLACs, including defense, representation, and the preparation of legal documents

- Specialists who are part of the interdisciplinary team (if necessary) may provide recommendations within their area of expertise for the organization of the relevant investigative (search) and procedural actions.

The Order includes an Annex containing a checklist to assess the center's preparedness for operation.

### Child Protection Authorities

On 9 August 2024, the Government adopted [Resolution #898](#), amending a list of by-laws concerning various child protection issues. As part of these changes, the child-oriented responsibilities have been transferred from the National Social Service to the State Service on Children (Child Protection Service).

Consequently, there are two main bodies involved in child protection now: the State Service on Children, which has a broader mandate and the Guardianship and Custody Service which primarily focuses on supporting children in difficult life circumstances, orphans, children deprived of parental care, children without legal guardians, and those who currently lack legal representation for any other reason.

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