

Legislative Update

UNHCR update on displacement-related legislation | July 2020

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Adopted Legislation

Legal response to the COVID-19 outbreak in Ukraine

In July 2020, further legislative amendments were made in relation to Ukraine's continued response to the COVID-19 outbreak¹. With the updated regulations, additional restrictions, as well as quarantine mitigation measures may be introduced at the oblast/settlement levels depending on the situation. Such an approach is expected to ensure flexibility in the response based on specific indicators such as the number of identified COVID-19 infection cases² in concrete oblast/settlement. Details are provided in the Annex to this document (page 5).

Access to state social benefits

On 22 July, the Government adopted its [Resolution #632](#)³, renewing some rules for calculating the monthly income of households based on which state social benefits are granted to low income households.

The new rules are applicable to all types of state social benefits, including to the IDP targeted assistance and subsidies for paying utility expenses. The cumulative household's monthly income includes salary⁴, pension, payments to military servicemen, student scholarship (apart from social student scholarship), social benefits, unemployment benefits, money transfers (including in foreign currency) and other types of income declared by an applicant. However, concerning the IDP targeted assistance, benefits to newborn and adopted children are not included into the calculation for the cumulative income. The Social Protection departments use the cumulative income to take a decision on the provision of other types of social benefits to low income families.

¹ Please see more details in UNHCR March, April and May-June Legislative Updates available online: <https://www.unhcr.org/ua/en/resources>

² As for 31 July, 1172 new cases have been registered. As for 1 August, 71 056 cases throughout Ukraine have been confirmed (without data from Donetsk and Luhansk non-governmental controlled areas and Crimea)

³ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/deyaki-pitannya-viplati-derzhavnoyi-socialnoyi-dopomogi-i220720-632>

⁴ The net salary is considered

The procedure of applying for state social assistance for households with low income describes technical details to be considered by families with monthly income lower than regular minimum living wage⁵.

The suggested changes require that all beneficiaries of state social benefits re-submit their application for social benefits. The eligibility criteria for some benefits have also been changed. For example, assistance to families with three and more children will stop as soon as the youngest child turns seven. UNHCR and its partners started receiving calls from families whose benefits were cut based on the new order. Some of them may face financial difficulties as social benefits were their main source of income.

Draft legislation

Simplified access to death registration

On 3 July, MPs registered in Parliament the [draft law #3832](#)⁶ introducing amendments to Article 317 of the Code of Civil Procedures which provides for a simplified court procedure for registering births and deaths occurred in the non-government controlled areas (NGCA) of Donetsk and Luhansk oblasts and in Crimea.

Currently, Article 317 contains a significant difference in its wording on courts authorized to proceed with birth and death registration. While applicants willing to register facts of birth that occurred in NGCA/Crimea may refer to *any first-instance court* in the government-controlled area (GCA), those who want to register facts of death that occurred in NGCA/Crimea are requested to apply to *a court* outside NGCA/Crimea. The authors suggest to eliminate this difference, stipulating the possibility of NGCA/Crimea residents to register facts of death in any local first-instance court in GCA.

The wording “outside NGCA/Crimea” is interpreted as an obligation to apply to a court in the place of residence registration of the applicant. In the case of Crimea, this is considered to be the city of Kyiv, while for NGCA there are respective courts in Donetsk and Luhansk oblasts. If adopted, this amendment will facilitate access to judicial procedure of death registration for applicants who will not have to travel to Kyiv. However, this will most likely increase burden on the courts in Kherson.

Introducing residence registration in NGCA/Crimea into ID documents

On 17 July, MPs registered in Parliament the [draft law #3902](#)⁷ introducing amendments to multiple legal acts on how to reflect residence registration in NGCA/Crimea in ID documents.

The authors suggest that, for issuance of ID documents and replacement of a photo in the book-shaped passports at the age of 25 and 45, persons with residence registration in NGCA/Crimea may apply to the State Migration Service (SMS) departments in a location of their choice. Residence registration in NGCA/Crimea of adults should be confirmed by relevant documents (e.g. residence registration stamp in a book-shaped passport) or data from the Unified Register of Voters, the IDP Database and/or the Unified Demographic Register. Residence registration in NGCA/Crimea of children aged 14-18 should be confirmed by an IDP certificate⁸, a document confirming property rights of their legal representative(s) for housing in NGCA/Crimea and/or residence registration of their legal representative(s) reflected in their ID documents. To confirm such residence registration, the legal representative of a child aged 14-18 should submit a written application to an SMS department of their choice. The date when a child gets a resident registration is indicated by a legal

⁵ In July 2020, it amounts to 2118 UAH

⁶ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69439

⁷ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69552

⁸ The IDP certificate of the child or his/her legal representative

representative in a respective application. In no case should such date be earlier than the date of the child's birth or than the date of the legal representative's residence registration. For foreigners and stateless persons such date should be later than the date of receiving an immigration permit, the status of a refugee or of a person in need of complementary protection. The Government should adopt an order for introducing data on residence registration in NGCA/Crimea into ID documents.

The adoption of this draft law could positively impact the access to documentation for persons with residence registration in NGCA/Crimea. Having information on residence registration indicated in an ID document is currently essential for being recognized as an IDP and obtaining an IDP certificate as well as for accessing state and bank services. It is as important in order to be able to travel to NGCA/Crimea. For the moment, only persons possessing a book-shaped passport are able to prove their residence registration in NGCA/Crimea by showing the stamp in their passport. If it is lost, the book-shaped passport will be replaced by an ID card which does not contain visible evidence of residence registration. This will only be visible using special readers which are not available in most state entities. Additionally, persons with residence registration in NGCA currently can apply for documentation services only with the SMS departments in the Donetsk and Luhansk (GCA) oblasts, while persons having their residence registered in Crimea may be serviced in SMS departments in any oblast of Ukraine. The draft is called to eliminate this barrier and simplify confirmation of residence registration in NGCA/Crimea to all categories of persons, including children aged 14-18, for whom the procedure of confirming residence registration is not unified.

Other developments

Establishing military-civil administrations in Lysychansk and Sievierodonetsk

On 27 and 28 July, the President of Ukraine established military-civil administrations in two cities of the Luhansk oblast, Lysychansk⁹ and Sievierodonetsk¹⁰. According to the Law on military-civil administrations¹¹, such administrations are coordinated by the ATO/JFO command and are established in settlements of the Donetsk and Luhansk oblasts where relevant local authorities do not exercise their functions¹². The aim of the establishment of such administration is to restore safety, security and public order, counter terrorism and prevent humanitarian disasters in the ATO/JFO area. This also means that local elections cannot take place in these cities (as well as in any other localities where civil-military administrations were established).

Social charitable programme for Donetsk and Luhansk oblasts

On 15 July, the Government adopted its [Regulation #885-p](#)¹³, introducing a social charitable programme for the Donetsk and Luhansk oblasts. This Programme is aimed at supporting residents of settlements and territorial communities in close proximity to Entry/Exit checkpoints by placing solar electric stations on the roofs of healthcare, educational and cultural institutions, and buildings of law enforcement, state and local self-government bodies; as well as lighting of crosswalks and charges for cell phones. The list of activities to implemented under this Programme shall be jointly elaborated by the Ministry for Reintegration of the

⁹ The full text available online (in Ukrainian): https://www.president.gov.ua/documents/2932020-34489?fbclid=IwAR0ILEHhHMx2VNcmXKYbNFMRLu750oMmP1hguWlU0hkum9SVp_mNw3K4f4

¹⁰ The full text available online (in Ukrainian): https://www.president.gov.ua/documents/2972020-34505?fbclid=IwAR2hrLIXENqbwMRLXGL1gYPDxIkPkNuE-E_RFSPoIV37LKjxKFtXQ_J-BeQ

¹¹ The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/141-19#Text>

¹² These reasons include their factual dissolution or withdrawal from exercising their functions or their non-fulfilment

¹³ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-zatverdzhennya-programi-diyalnosti-kabinetu-ministriv-t120620>

Temporarily Occupied Territories (MinReintegration), the Ministry for Development of Communities and Territories, the Donetsk and Luhansk oblast administrations and Naftogaz (upon consent).

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ANNEX

LEGAL RESPONSE TO THE COVID-19 OUTBREAK IN UKRAINE

On 22 July, the Government adopted its [Resolution #641](#)¹⁴, introducing an updated algorithm of adaptive quarantine measures to be implemented until 31 August 2020. The new modality envisages the introduction of “green”, “yellow”, “orange” or “red” levels which shall serve as an indication of the spread of COVID-19 against resources available in a particular region/settlement. The level is determined by the State Commission on technological and ecological security (the Commission) and promulgated on the Government website. Unless specifically defined as yellow/orange/or red, the region is considered “green” thus illustrating a low level of spread of COVID-19.

The Government specified the following criteria for considering a region as affected by the spread of COVID-19: the number of patients with confirmed COVID-19 is higher than 50% of the capacity of the medical institutions (number of beds available for placing patients); the total number of newly identified COVID-19 cases is higher than 24 per 100 thousand persons during the last seven days and the percentage of newly identified cases exceeds 11%. Even if one of these criteria is satisfied, the region/settlement is considered affected by the spread of COVID-19. The Commission reviews the situation and adjusts the level every five days.

The below restrictive measures remained applicable countrywide. It is prohibited to:

- stay without a face mask in public places and public transport;
- be outside without ID documents;
- leave self-isolation/observation facilities;
- cross the international boundary of Ukraine for foreigners and stateless persons (except those constantly residing in Ukraine, refugees and persons in need of complementary protection, diplomatic and consular personnel, staff of international organizations and missions, military personnel of NATO member states and Partnership for Peace member states) without an insurance certificate that covers COVID-19-related treatment and observation, as their staying in observation facilities should be covered by an insurance company or at their own costs;
- cross the line of contact (LoC) in the east of Ukraine and the administrative boundary with Crimea for foreigners and stateless persons without an insurance certificate for COVID-19-related treatment and observation.

The restrictive measures applicable to regions are reflected below.

“Green”	“Yellow”	“Orange”	“Red”
At this level, it is forbidden to: - conduct mass events with more	All restrictions related to “green” level are applicable. Additional prohibitions include:	All restrictions related to “green” and “yellow” levels are applicable. Additional prohibitions include:	All restrictions related to “green”, “yellow” and “orange” levels are applicable. Additional prohibitions include:

¹⁴ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vstanovlennya-karantynu-ta-zapr-641>

<p>than 1 person per 5 square meters;</p> <ul style="list-style-type: none"> - attend cinemas and cultural facilities if more than 50% of tickets are sold; - restore inter-city and inter-oblast connections in full. Drivers should ensure that the number of passengers equals the total number of seats and that all of them wear face masks. If the need arises, drivers should provide face masks. 	<ul style="list-style-type: none"> - providing palliative care and social protection to children, elderly, persons with disabilities and other vulnerable categories of the population (apart for emergency workers, including health and fire workers). 	<ul style="list-style-type: none"> - conducting mass events with more than 100 participants and more than 1 person per 20 square meters; - benefitting from hosting services (except hotels); - functioning of night clubs, cafes, restaurants from 12:00 a.m. till 7:00 a.m. except takeaway and delivery options; - attending educational facilities by more than 20 persons, except pre-school and school facilities; - regular hospitalization in health care facilities, except cases related to giving birth, oncology, palliative care and urgent hospitalization in life-threatening situations upon condition of testing on COVID-19; - attending gyms and child recreation centres. 	<ul style="list-style-type: none"> - all internal, inter-city and inter-oblast transport connections except private vehicles with max 5 passengers (except children aged below 14) and corporate vehicles where the number of passengers equals the total number of seats and that all of them wear face masks. Transport routes should be agreed with the National Police at least two days in advance; - attending educational and cultural facilities, cafes, restaurants, leisure centres, gyms; - accessing non-emergency social or rehabilitation services; - buying food, hygiene items, medicines, garden inventory; accessing medical and bank services; takeaway and food delivery options are allowed.
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The previously adopted provisions on staying in self-isolation/observation facilities remain unchanged. The same is applicable to personal data processing and inter-agency data sharing without agreement of the persons concerned with regard to their health status.¹⁵ The National Police, the National Guard and local self-government bodies are entrusted to conduct a selective identity check in streets, parks and public places and to verify through e-inquiry whether this person falls under self-isolation or observation regime.

The adopted Resolutions exempts those crossing the LoC and the administrative boundary with Crimea from self-isolation requirement with the assistance of the mobile application “Diy vdoma”¹⁶ (“Act at home”) since 1 August 2020 unless the Government explicitly decides that all travellers from NGCA/Crimea should fall under the self-isolation regime. This was a positive development as persons entering GCA from territories outside Governmental control receive now the same treatment as persons residing in other oblasts of Ukraine without

¹⁵ Please see more details in UNHCR April Legislative Update

¹⁶ Please see more details in UNHCR April and May-June Legislative Updates

additional barriers. However, based on the decision of the JFO Commander-in-Chief of 3 August, crossing of the LoC in the east is conditioned with the obligation to install “Diy vdoma”¹⁷. UNHCR considers that this decision should be reversed as it is not in line with the legislation.

¹⁷ JFO Commander-in-Chief is entrusted to undertake such decisions with regard to JFO area. Please see more details on similar decisions in UNHCR March Legislative Update