

Legislative Update

UNHCR update on displacement-related legislation | December 2020

Adopted Legislation

- Ratification of the agreement on financial cooperation to fund housing solutions for IDPs
- Adoption of the State budget for 2021
- Legal response to the COVID-19 outbreak in Ukraine
- Prolongation of the validity of the Law on the special self-government regime in Donetsk and Luhansk NGCA
- Accessing temporary housing stock for IDPs
- Maintenance of Entry-Exit Checkpoints (EECPs) in the line of contact in the east of Ukraine and the administrative boundary with Crimea

Draft legislation

- Amendments to the Law on IDPs
 - Amendments to the Law on missing persons
- ### Other developments
- Increased funding for IDP housing solutions
 - Concept for economic development of the Donetsk and Luhansk oblasts

Adopted Legislation

Ratification of the agreement on financial cooperation to fund housing solutions for IDPs

On 2 December 2020, the Parliament adopted the [Law #1037-IX](#)¹ on ratifying the agreement between the Cabinet of Ministers of Ukraine and the Government of Germany on financial cooperation aimed at finding housing solutions for IDPs. The Law will enter into force on 8 January 2021. Details are available in UNHCR Legislative Updates for September² and November³ 2020.

The implementation of the agreement still requires adoption of by-laws from the Government to specify its procedure which would then allow to start the project's implementation in early 2021 in all oblasts in the government-controlled area (GCA)⁴. According to available information⁵, a new housing waiting list will be created. Most probably, this option would be available to IDPs only. The existing waiting list will not be used for the purposes of implementation of this agreement. Registration in both lists is allowed. Details of the selection process are expected in the beginning of 2021.

Adoption of the State budget for 2021

Adopted on 15 December, the State Budget for 2021 ([Law # 1082-IX](#)⁶) entered into force on 1 January 2021. The major expenses related to the work with displaced and conflict-affected populations are reflected below (in

¹ The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/1037-IX#Text>

² The full text available online: <https://www.unhcr.org/ua/wp-content/uploads/sites/38/2020/11/2020-09-Legislative-Update.pdf>

³ The full text available online: https://www.unhcr.org/ua/wp-content/uploads/sites/38/2020/12/2020-11-Legislative-Update_ENG.pdf

⁴ Facebook post of Mr. Ruslan Kalinin, Former Deputy Minister for Veteran Affairs, TOT and IDPs, who was deeply involved in communicating the Agreement in 2019-early 2020. The post available online (in Russian): <https://www.facebook.com/ruslan.dn/posts/4668533836554874>

⁵ Ibid

⁶ The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/1082-IX#Text>

thousand UAH). Increased expenses (in comparison with 2020) are marked in green. Decreased or deleted expenses are marked in red. Unchanged expenses are not marked.

Public body / budget programme	2020	2021 final
<i>Ministry for Reintegration of Temporarily Occupied Territories (MinReintegration)</i>	128,615.5	947,450.0
<i>Expenses under the coordination of the MinReintegration:</i>		
Subvention from the state budget to local budgets to support conflict-affected areas in Eastern Ukraine	20,000.0	125,000.0
Mine risk education	5,000.0	5,000.0
Subventions to local budgets to finance "Housing for IDPs" project	485,000.0	Not envisaged
Financial compensation for housing destroyed during military emergency	20,000.0	114,000.0
Subventions to local budgets for housing for displaced ATO/JFO participants with disabilities	248,445.0 (covered by the Ministry for Veteran Affairs)	248,445.0 (covered by the Ministry for Veteran Affairs)
Ensuring proper conditions for entering/exiting NGCA/TOT		267,114.5
Elaboration of systems/databases on reintegration		5,000.0
Reintegration of youth from NGCA/TOT		30,000.0
Development of rural infrastructure in Luhansk oblast		30,000.0
<i>Ministry of Social Policy of Ukraine (MoSP)</i>	312,907,779.8	311,302,029.8
<i>Displacement related expenses under the coordination of the MoSP:</i>		
Monthly targeted assistance to IDPs	3,042,568.6	3,051,573.3
Financing measures to protect children, families, women from the most vulnerable categories of population	84,809.6	66,019.8
Financing subsidies for housing/dwelling and communal services	39,329,479.0	36,607,708.6
Financing of accommodation of Formerly Deported People (Crimean Tatars).	20,000.0	Not envisaged
Implementation of pilot project "Development of social services"		10,000.0
<i>Ministry of Education and Science of Ukraine</i>	42,760,372.3	50,838,203.0
<i>Ministry of Health of Ukraine</i>	114,550,207.7	159,189,672.1
<i>Ministry of Justice of Ukraine</i>	13,883,132.2	15,452,715.6
<i>Expenses under the coordination of the MoJ:</i>		
Free Legal Aid Coordination Center	820,753.7	954,790.8
Financing services and expenses of advocates of FLA	385,184.0	385,184.0
<i>Ministry for Development of Communities and Territories (former Ministry of Regional Development)</i>	621,723.2	931,070.9
Subvention from the state budget to local budgets for the implementation of cross-border cooperation projects	This budget line is absent	Not envisaged
Subvention from the state budget to local budgets for the formation of the infrastructure of the amalgamated territorial communities	2,100,000.0	62,550.0
Subvention from the state budget to local budgets for implementation of projects under the Extraordinary Financing Programme of Restoring Ukraine (nationwide expenditures)	1,275,000.0	1,650,000.0
Support for affordable housing programme	This budget line is empty	Not envisaged
Reduction of price for real estate loans for affordable housing programme		35,000.0
State Fund for Regional Development	4,900,000.0	4,500,000.0
<i>Ministry of Defence of Ukraine</i>	117,509,257.8	117,626,443.2
<i>State Emergency Service</i>	15,374,373.3	16,341,656.1
<i>State Migration Service</i>	3,987,090.5	3,582,422.8
Leadership and management in the field of migration, citizenship, immigration and registration of individuals	191,026.2	212,562.9
Ensuring implementation of tasks and functions in the field of citizenship, immigration and registration of individuals	3,798,539.3	3,368,857.7

Contribution to IOM membership fees	922.2	1,002.2
Administration of the <i>State Border Guard Service</i>	12,968,326.7	14,225,588.9
<i>State Security Service</i>	12,165,891.9	14,959,625.1
<i>Office of the Ombudsperson</i>	124,671.4	213,709.2
Financing National Prevention Mechanism (prevention of tortures and degrading treatment) by the Office of the Ombudsperson	1,567.0	3,282.0
Donetsk oblast state administration	373,909.6	314,499.5
Luhansk oblast state administration	278,839.4	203,187.4
Kherson oblast state administration	263,212.9	212,062.1

As may be observed, the MinReintegration, the Ministry of Health, the Ministry for the Development of Communities and Territories and the Ombudsperson's Office have benefitted from the most significant budget increases. Budgets of the Ministries for Education, Justice and Defence; the State Security Service, the State Emergency Service and the State Border Guard Service were comparatively slightly increased. The budget of the Ministry for Social Policy is slightly decreased. The State Migration Service faced the most significant budget cut by approximately 10%. The Donetsk, Luhansk and Kherson oblast administrations all faced cuts of 5-7%.

Housing issues remain the most acute for IDPs. Most housing related expenses available to IDPs and budgeted in previous years (50/50 affordable housing, "housing for IDP" project, accommodation of formerly deported people) are not foreseen in the 2021 budget. The only remaining option is housing for displaced ATO/JFO participants. In parallel, there is a new housing option added during the second reading: a reduction of price for real estate loans for the affordable housing programme (35 mln UAH), also available for IDPs. UNHCR will monitor these developments.

On a positive note, the funding for subventions to conflict-affected territories has been increased (125 mln UAH in comparison to the currently assigned 20 mln UAH). Considering this, more settlements may benefit from a subvention to improve infrastructure and access to services for host communities, IDPs and conflict-affected persons. Additionally, the funding for compensation for destroyed housing was increased considerably (114 mln UAH in comparison to 20 mln UAH allocated in 2020).

New expense categories are present in the budget such as an improvement of the conditions at EECs with NGCA and Crimea; elaboration of systems/databases on reintegration; reintegration of youth from NGCA/TOT and development of rural infrastructure in the Luhansk oblast.

Legal response to the COVID-19 outbreak in Ukraine

In December 2020, the Government prolonged the restrictive measures aimed to prevent further spread of COVID-19 in Ukraine. By its [Resolution #1236](#)⁷ of 9 December, it extended restrictive measures until 28 February 2021. The list of updated country-wide restrictions includes:

- Staying without face masks in public places and public transport;
- Staying outside without ID documents;
- Leaving self-isolation/observation facilities;
- Crossing the international border of Ukraine for foreigners and stateless persons without insurance covering COVID-19 related treatment and observation. This is not applicable to individuals permanently residing in Ukraine, refugees and those in need of complimentary protection, staff of international and

⁷ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vstanovlennya-karantynu-ta-zaprovadzheniya-obmezhuvalnih-protiepidemichnih-zahodiv-1236-091220>

humanitarian missions accredited in Ukraine and their family members, military instructors from NATO Member States and Partnership for Peace;

- Crossing the line of contact (LoC) in the east of the country and the administrative boundary with Crimea for foreigners and stateless persons without insurance covering COVID-19-related treatment and observation;
- Conducting public events with more than 20 participants except when necessary for the functioning of the state and local authorities or for the training of Ukrainian national sport teams;
- Attending religious facilities if there is more than one person per 5 sq. meters and if physical distancing of 1,5 meters is not observed;
- Attending dance and night clubs, other festive events;
- Attending cinemas and theatres with occupancy over 50%;
- Attending museums, exhibitions and galleries if there is more than one person per 10 sq. meters;
- Attending gyms if there is more than one person per 20 sq. meters;
- In public transport, drivers should ensure that the number of passengers equals the total number of seats. Passengers shall wear facial masks;
- Functioning of cafes and restaurants is prohibited from 11:00 p.m. till 7:00 a.m. except takeaway and delivery options and for the New Year's Eve, when the functioning would be allowed from 11:00 p.m. 31 December 2020 until 7 a.m.⁸ 1 January 2021;
- Benefitting from hosting services (except hotels and rehabilitation centres);
- Attending educational facilities by more than 20 persons is prohibited. The only exceptions include preschool, school, sport and art education facilities (in case 50% or more of teachers and learners are potentially contaminated and therefore will stay in self-isolation after contacting those infected with COVID-19 then such facilities shall also be fully closed);
- Planned operations are prohibited (except for pregnancy and labour, oncology, palliative care and urgent operations). Visits to facilities providing palliative care and social protection to vulnerable individuals (apart for emergency workers, including health and fire workers) also fall under those prohibitions. Visits to temporary accommodation centres (TACs) for refugees and migrant custody centres (MCC) for irregular migrants are allowed for legal aid workers only.

Apart from this, the Government introduced a full lockdown from 8 until 25 January 2021. This means that the functioning of shopping malls, leisure centres, other leisure and entertainment facilities, cultural facilities, gyms, fitness centers and basins is prohibited. Supermarkets, food shops, fuel shops, fuel stations, pharmacies, veterinary pharmacies, financial institutions, delivery options of non-food items, takeaway and delivery options in cafes and restaurants continue working. This is expected to minimize interactions between people and lower the spread of COVID-19.

[Prolongation of the validity of the Law on the special self-government regime in the Donetsk and Luhansk NGCA](#)

On 15 December, the Parliament amended Article 1 of the Law of Ukraine “On special local self-government regime in certain areas of the Donetsk and Luhansk oblasts” prolonging the validity of the law until 31 December 2021.⁹ This change was adopted in order to fulfil Ukraine’s obligations under the Minsk peace process with regard

⁸The full text available online (in Ukrainian): https://www.kmu.gov.ua/news/uryadom-zaprovadzheno-perelik-karantinnih-obmezhen-yaki-diyut-z-19-grudnya-2020-roku-na-vsij-teritoriyi-ukrayini?fbclid=IwAR0KZWjLRnxnybTDJJvt_ITK5k0dtpQqST8mWZguBUhUgvmJuRXpQw_QSik

⁹ The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/1078-IX#Text>

to pre-conditions for integrating the non-government controlled areas (NGCA) of the Donetsk and Luhansk oblasts.

[Accessing the temporary housing stock for IDPs](#)

On 23 December 2020, the Government adopted its [Resolution #1311](#)¹⁰ introducing amendments to its Resolution #582 of 26 June 2019¹¹ on the establishment and use of the temporary housing stock for IDPs. While the algorithm remains the same¹², amendments clarify the procedure. IDPs can now apply for temporary housing in any other settlements in the same raion (district or amalgamated community) as the settlement of their factual residence. Previously it was only possible to apply after one-year residence in a certain locality. Now this requirement has been abolished. Local authorities/military-civil administrations may review the scoring system initially linked to vulnerability criteria (such as disabilities, number of children in the family or participation in the ATO/JFO). They can introduce additional scores (max 20), depending on what categories of persons are considered to be in priority need of temporary housing in a particular settlement. This clause is broad and may be applicable to numerous cases. For instance, additional scoring may be linked to labour market needs; when several specialists (e.g. teachers) may receive such scores in a settlement where they work. An IDP is expected to receive the authorisation to use the temporary housing within 30 days after the special commission examined his/her application and issued its positive decision. Otherwise¹³, the decision is revoked. Repetitive applications remain possible.

While the adopted amendments simplify the IDP access to temporary housing solutions, they do not solve key issues impeding this access. Since temporary housing stocks are very limited throughout Ukraine, it might be difficult to ensure access. However, local authorities may apply for subventions from the central budget to cover enlargement of the temporary housing stock.

[Maintenance of Entry-Exit Checkpoints \(EECPs\) at the line of contact \(LoC\) in the east of the country and the administrative boundary with Crimea](#)

On 28 December 2020, the Government adopted its [Resolution #1368](#)¹⁴ introducing unified requirements for the maintenance of EECPs at the LoC in the east and administrative boundary with Crimea. It entrusts the state enterprise “Reintegration and restoring”¹⁵ to maintain all EECPs. This is a positive development. UNHCR and other organizations have been long advocating for a single governmental structure to be responsible for EECPs.

The Resolution specifies technical requirements for EECPs and two types of zones functioning nearby. A regime zone is designed to conduct verification of pedestrians and transport vehicles. A service zone provides access to the administrative services in GCA and public transport. The number of EECPs and the delimitation of their zones in the Kherson oblast are suggested by the State Border Guard Service of Ukraine and the MinReintegration and approved by the Kherson oblast administration. The number of EECPs and the delimitation of their zones in the Donetsk and Luhansk oblasts are suggested by the Donetsk and Luhansk military administrations and are approved by the Joint Forces Operation (JFO) Commander.

¹⁰ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-poryadku-nadannya-v-timchasove-koristuvannya-zhitlovih-primishchen-z-fondiv-zhitla-dlya-timchasovogo-prozhivannya-vnutrishno-peremishchenih-osib-i231220-1311>

¹¹ The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/582-2019-%D0%BF#Text>

¹² Please see more details in UNHCR 2019 July Legislative Update available online: <https://www.unhcr.org/ua/wp-content/uploads/sites/38/2020/07/2019-07-Legislative-Update.pdf>

¹³ The only exception is a legitimate excuse. Legitimate excuses are equivalent of force majeure: these are the reasons that occur independently of the will of IDP or his/her representative

¹⁴ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-zatverdzhennya-polozhennya-pro-a1368>

¹⁵ The entity is coordinated by MinReintegration

Draft legislation

Amendments to the Law on IDPs

On 7 December, MPs registered in Parliament the [draft law #4487](#)¹⁶ introducing amendments to the Law on IDPs. The draft initiative aims to delink access to state services and benefits, which are not related to internal displacement, from IDP registration. It suggests eliminating administrative barriers such as IDP physical identification and verification, which are currently in place for pension and social benefits recipients. The draft specifies the grounds for IDP integration into host communities, making IDPs and their needs visible for local authorities. This is expected to ensure that IDPs and their needs are taken into account during the planning and budgeting done by the local authorities. The draft contains procedures for elaborating and implementing IDP housing options. It also enshrines the coordination role and responsibilities of the MinReintegration as the central authority in charge of IDP-related issues.

If adopted, the draft law may help addressing IDP needs in protracted displacement. It shall ensure that there is no strong links between IDP registration and access to services. It shall remove the “IDP status” from Ukrainian legislation, the concept as such raising multiple obstacles to finding durable solutions for displaced persons.

Amendments to the Law on missing persons

On 15 December, MPs registered in Parliament the [draft law #4495](#)¹⁷ introducing amendments to Law on missing persons. The technical draft suggests that the Ministry of Veterans is included into the Commission on missing persons. This is a logical step, since many missing persons are from among military staff.

Other developments

Increased funding for IDP housing solutions

On 9 December 2020, the MinReintegration [declared](#)¹⁸ IDP housing solutions to be among its priorities for 2021. The increased funding from the State Budget is expected to provide housing to 300 IDP families. The primary recipients will be IDPs residing in collective centres. In parallel, the Ministry will be actively engaged into implementation of the agreement on financial cooperation with the Government of Germany (described above).

Concept for the economic development of the Donetsk and Luhansk oblasts

On 23 December 2020, the Government adopted its [Regulation #1660-p](#)¹⁹ on approval of its Concept for the economic development of the Donetsk and Luhansk oblasts. The Concept is focused on the socio-economic development of the Donetsk and Luhansk oblasts in GCA. It shall contribute to the establishment of workplaces and community mobilization through identification of locations and clusters for priority development. It is expected that tax benefits for entrepreneurs and development of infrastructure will be introduced. This should be done in

¹⁶ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=70641

¹⁷ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=70666

¹⁸ The full text of news available online (in Ukrainian): https://mtot.gov.ua/ua/minreintegracii-planue-zabezpechiti-novim-jitlom-ponad-300-rodin-vpo-z-derjbudjetu?fbclid=IwAR36dAxwqZPPjDhjkFST4qgZg7pb95p-3MmiW-xRMmUU7_os_TFx9gfaAGg

¹⁹ The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/1660-2020-p#Text>

line with the ongoing decentralization reform. Based on the Concept, a comprehensive Strategy²⁰ for the economic development of the Donetsk and Luhansk oblasts shall be elaborated till April 2021.

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²⁰ The full text of news available online (in Ukrainian): <https://mtot.gov.ua/ua/strategija-ekonomichnogo-rozvitku-donbasu-bazuvatimetsja-na-rozvitku-gromad>