Ukraine
October 2017

Tetiana Kovalenko (right), 83, fled Donetsk city after her house was bombed. Since 2015, she lives in the town of Myronohrad, in the government-controlled area of Donetsk region, and is registered as an internally displaced person. She stopped receiving her pension of some USD 73 per month after the social security service decided that she lives in the non-government-controlled area. Photo: © UNHCR/David Gasparyan

Legislative developments

This update covers major legislative developments during August-September 2017 and includes information on the amended by-laws related to access to the affordable housing program and targeted assistance for IDPs, as well as on major IDP-related draft legislation.
Adopted legislation

Amendments related to IDP registration and targeted assistance

On 13 September, the Cabinet of Ministers adopted amendments\(^1\) to its resolutions on targeted assistance and verification of IDPs (Resolution no. 505 of 1 October 2014 and Resolution no. 365 of 8 June 2016), introducing the following positive changes:

- Increased targeted assistance for IDPs with disabilities:
  - An increase of up to 130 per cent of the minimum living allowance for IDPs with group one disabilities as per Ukrainian legislation (Group I), as well as for children with all types of disabilities;\(^2\)
  - An increase of up to 115 per cent of the minimum living allowance for IDPs with group two disabilities as per Ukrainian legislation (Group II).\(^3\)

- Access to targeted assistance for a larger number of IDPs with the adoption of less restrictive conditions: increased savings thresholds from up to 10 to up to 25 times the minimum living allowances, from approximately UAH 13,000 (USD 489) to UAH 42,000 (USD 1,580).

- The discriminatory restriction that IDPs may only withdraw social assistance payments at Oshchadbank, its branches and ATMs, is lifted. However, Oshchadbank remains the only bank where IDPs can open accounts to receive state assistance or pension payments.

- IDPs with group one disabilities and older IDPs may apply to receive their pensions and other payments at home (the Ukrainian postal service, UkrPoshta, is responsible for the delivery of payments). The amendments do not address the verification procedure for IDPs with reduced mobility meaning that home visits will continue for these IDPs.

- Home visits as a verification step are abolished for:
  - IDP pensioners who undergo physical identification in Oshchadbank. Local Departments of Social Protection (DoSP) offices will record their information in the IDP unified database. This mechanism will only work smoothly if Oshchadbank provides accurate information to the local DoSP in a timely manner.

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\(^1\) The text of Cabinet of Ministers Resolution no. 689 is available online (in Ukrainian): http://www.kmu.gov.ua/control/uk/cardnpdf?docid=250271225

\(^2\) In October this constitutes UAH 1,705; from 1 December it will increase to UAH 1,785 (USD 67).

\(^3\) In October this constitutes UAH 1,508; from 1 December it will increase to UAH 1,579 (USD 59).
IDPs employed by the state and local authorities. To that end, such individuals need to provide local DoSP offices with a certificate confirming their place of employment. This provision does not concern IDPs employed in any other sectors (commercial, private entrepreneurs, state enterprises, schools, hospitals, NGOs etc.).

Members of the armed forces who are IDPs and performing duties connected to the “Anti-terrorist Operation” (“ATO”).

Although positive in many respects, these amendments still leave many problems unresolved, including the linkage between the right to a pension and IDP registration.

Amendments to legislation on housing solutions for IDPs

The Cabinet of Ministers adopted amendments to its resolutions on affordable housing and the financing of such programs in order to implement effectively the law on access to affordable housing for IDPs. The law grants IDPs state support for 50 per cent of the cost of construction (or purchase) to build (or buy) a home. With the adoption of these amendments, the Cabinet of Ministers ensures:

- That registered IDPs do not need to be added to the local administration lists for the improvement of housing conditions in order to be eligible for the affordable housing program.
- The lack of property rights in the non-government controlled areas (NGCA) is an important eligibility criteria for the participation in the program.
- The program will cover up to 50 per cent of the expenses related to the purchase of homes for IDPs (from the local or central budget), while IDPs are expected to cover the remaining balance.

The implementation of the program still depends on the proper allocation of funds in the 2018 State Budget.

Reinforcement of control over Ukrainian border crossings

On 30 August, the President signed Decree no. 256/2017 enforcing a decision of the National Security and Defence Council of 10 July 2017. The decision concerns reinforcement of control over entry to and exit from Ukraine of foreigners and stateless

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4 Resolution no. 708 of 20 September 2017; the full text is available online (in Ukrainian): http://www.kmu.gov.ua/control/uk/cardnpd?docid=250287536
5 Resolution no. 140 of 11 February 2009; the full text is available online (in Ukrainian): http://zakon3.rada.gov.ua/laws/show/140-2009-%D0%BF
6 Resolution no. 193 of 29 February 2012; the full text is available online (in Ukrainian): http://zakon3.rada.gov.ua/laws/show/193-2012-%D0%BF
7 The full text is available online (in Ukrainian): http://zakon2.rada.gov.ua/laws/show/1954-19
8 The full text is available online (in Ukrainian): http://www.president.gov.ua/documents/2562017-22506
persons. Although the decision concerns foreigners and stateless individuals from different countries, it is obvious that the emphasis is on the situation of citizens from the Russian Federation. In particular, the decree:

- Provides an updated list of countries with migration-related risks including the Russian Federation;
- Requires citizens from those countries to submit preliminary notification of their intention to visit Ukraine one month before their visit (the mechanism and responsible authorities will be identified within the next two months);
- Stipulates that citizens from countries with migration-related risks may only enter or exit Ukraine with a biometric passport;
- Confirms the implementation of the national biometric verification and identification system at all border checkpoints from 1 January 2018.

The decree requests state authorities to identify the necessary sources to fund the envisaged activities.

Draft legislation

**Enhancement of Parliamentary control over the human rights of IDPs**

Draft law no. 7027 suggests amending some legal acts to reinforce Parliamentary control over the human rights of IDPs and residents of the “temporarily occupied territories”. As per the draft provisions, the Ombudsperson is tasked with overseeing human rights observance for those categories of individuals and with preparing annual reports on the situation.

**Prolongation of the statute limitations on the collection of loans repayments (concerning Crimea)**

The Cabinet of Ministers registered draft law no. 7045 amending article 12 of the law of Ukraine “On ensuring rights and freedoms of persons and the legal status of the temporarily occupied territory”. The draft states that the statute limitations on the collection of loan repayments issued by banks and financial institutions in Crimea will count from the day “after the day when the temporarily occupied territory is returned under the general jurisdiction of Ukraine”. Upon adoption of the draft law, a general norm of the Civil Code of Ukraine of three years statute limitation would not apply to Crimea.

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9 The full text is available online (in Ukrainian): [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62408](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62408)

10 The full text is available online (in Ukrainian): [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62433](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62433)
Social protection of civilians with serious bodily injuries caused by hostilities

Two alternative drafts were registered to address the issue of civilians with serious bodily injuries caused by hostilities:

- The first draft law, no. 7046,\(^\text{11}\) amends the Law of Ukraine “On social protection of invalids in Ukraine” to provide privileges to civilians with disabilities caused by hostilities or armed conflicts. These privileges include, among others, free of charge use of utilities and public transport, including rail and intercity buses; financial assistance due to temporary inability to work; and privileged access to kindergartens and schools for their children. Civilians whose disability was caused by hostilities or armed conflicts would also benefit from certain labour privileges. Additionally, such individuals may receive a one-time compensatory payment, the amount of which would depend on the type (group) of disability. The draft includes special provisions for children injured in the course of hostilities or as a result of an armed conflict.

- The second draft, no. 7046-1,\(^\text{12}\) contains similar provisions, while also suggesting that civilian victims of hostilities may receive increased pensions depending on their disability group.

For the successful implementation of either draft laws, sufficient financial allocations from the state budget are required.

The lifting of the economic blockade of the non-government controlled areas

Parliament registered two alternative draft laws aimed at lifting the economic blockade of the non-government controlled areas:

- Draft law no. 7047 suggests lifting the blockade “in exchange for the return of control over national enterprises” located in the NGCA.\(^\text{13}\) After the reestablishment of the control and function of large enterprises under Ukrainian law, the transfer of goods and rendering of services to the NGCA shall become possible. The draft law does not provide a definition of the terms and conditions of the “exchange”, while tasking the Cabinet of Ministers to develop a specific mechanism within six months of the adoption of the law.

- The alternative draft law no. 7047-1, registered under the same name,\(^\text{14}\) contains additional articles related to the reintegration of the territory and the further enhancement of social links with the population. In particular, the draft suggests:

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\(^{11}\) The full text is available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\_1?pf3511=62434

\(^{12}\) The full text is available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\_1?pf3511=62537

\(^{13}\) The full text is available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\_1?pf3511=62435

\(^{14}\) The full text is available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\_1?pf3511=62538
The registration and collection of taxes under Ukrainian legislation from enterprises located in the NGCA and controlled by their owners from the government-controlled area (GCA).

To allow enterprises located in the NGCA but paying taxes to the Ukrainian budget to transfer cargo transfers across the line of contact.

To pay salaries to employees of such enterprises via bank transfers to bank cards and not in cash.

To restore passenger transport across the line of contact, and suspend it only in life threatening situations.

**Inventory of properties situated in “temporary occupied territories”**

The Cabinet of Ministers of Ukraine registered the draft law no. 7053 aiming to ensure a proper registration of assets (property) of enterprises and companies that remain in “temporary occupied territories”. The draft law suggests that where an enterprise owns property located in “temporary occupied territories”, it will not be registered as a company asset, though it will remain under its ownership. This will lead to the lifting of certain accounting and tax obligations with regard to the property.

**Obligations of civil-military administrations towards entry-exit checkpoints in the Donetsk and Luhansk regions**

A group of Parliamentarians registered draft law no. 7105 that places full responsibility for the smooth functioning of the entry-exit checkpoints in Donetsk and Luhansk regions on local civil-military administrations. Infrastructure support, as well as the provision of services and energy supplies would come under the budgets of the local civil-military administrations in the area where the checkpoints are located. With the possible introduction of military administrations and martial law, such amendments may become unsustainable.

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**LINKS**


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15 The full text is available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62441

16 The full text is available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62528