

Legislative Update

UNHCR update on displacement-related legislation | January 2019

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Adopted legislation

Law on mine action in Ukraine

On 22 January 2019, the President signed the Law on mine action in Ukraine¹. On 25 January 2019, it entered into force.²

In spite of this very positive development, the adopted text introduces several financial risks. In particular, it contains contradictory rules on donor support to mine action activities (including national and foreign mine action operators' tasks). On the one hand, the Law creates a special state fund accumulating donors' resources for mine action activities. On the other hand, the Government allows mine action operators directly funded by donors and those acting simultaneously as mine actions operators and donors to participate in mine action activities.

These provisions may influence the level of donors' support, as their common practice is direct contribution to mine action operators without direct link to the state budget. For humanitarian organizations involved in mine action activities, the recently identified risks in the Law may require specific monitoring and/or cooperation with state bodies concerned for further clarifications and solutions.

The pilot National Mine Action Standards (NMAS)

In the end of 2018 Ministry of Defence (MoD) jointly with UNDP, OSCE, Geneva International Centre for Humanitarian Demining (GICHD) and Halo Trust has elaborated a pilot national mine action³ standard (NMAS) titled "Mine Action. Management. Main Provisions". National Standardization Body adopted the Standard by its Order #511 on 19 December 2018⁴ as pilot with 3 years' term of validity (1 April 2019-1 April 2022).

At the time of preparation of this Update, the full text of the Standard is unavailable. The MoD explained that the Standard covers:

¹ The full text is available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/2642-viii>

² Please refer to UNHCR December 2018 Legislative Update for detailed description of its general framework. The full text is available online: https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/2018_12_legislative_update_eng.pdf

³ The Ministry of Defence announcement available online (in Ukrainian): http://www.mil.gov.ua/news/2019/01/02/naprikinczi-minulogo-roku-bulo-prijnyato-nacjonalnij-standart-z-protiminnoi-diyalnosti/?fbclid=IwAR1H3A3Xjx1b1EVN_kRCaamBWZAis51yeuRx4Byq98cyNt-gXksNsxZ-7GQ

⁴ The full text available online (in Ukrainian): <http://uas.org.ua/ua/services/standartizatsiya/nakazi-dp-ukrindnts/2018-2/gruden/>

- application of unified mine action terminology and rules of mine action activities by all stakeholders;
- issues related to safety and security of demining and clearance activities;
- identification of human rights affected by mines and explosive remnants of war (ERW);
- ensuring safety of environment; and
- Ukraine's compliance with international obligations in the area of demining.

The NMAS will define common requirements for mine action activities corresponding to international standards in the area of mine action operations. At this stage, there is no information on how the MoD will involve conflict-affected population residing in contaminated areas in the process. For a comprehensive approach, inputs from all relevant stakeholders are necessary.

Pension Fund budget for 2019

On 16 January 2019, the Government adopted its Resolution #14⁵, establishing figures of the Pension Fund budget for 2019. The budget provides 50 mln UAH to cover pension-related payments under the relevant court decisions, IDPs being one of the categories of applicants. There is a lack of clarity whether or not IDP-related pension debts will be reimbursed from this amount. The Government still has not adopted a resolution on the payment of accumulated debts to IDPs under court decisions, as it was expected as per Resolution #335 (May 2018). Most likely, the allocated sum will not be used to cover the pensions owed to IDPs.

Law on social services

On 17 January 2019, the Parliament adopted a law⁶ defining the procedure of social services provision to citizens of Ukraine, foreigners, refugees and stateless persons in difficult life circumstances. The needs based approach to the provision of social services is reinforced and systematized with this law. It sets out the whole process starting with the definition of vulnerability criteria and types of social services available, and ends with financial support to beneficiaries. It also clarifies roles of key state and non-state actors.

The adopted initiative is expected to simplify access to social services to those in need, including those whose needs arose due to the conflict. The general framework for the needs assessment introduced by the provisions of the law still requires further elaboration through by-laws within 6 months.

Strengthening protection of GBV and domestic violence survivors

On 23 January 2019, the Government adopted its Resolution #43⁷ on including survivors of GBV and domestic violence to a range of its resolutions in order to extend to them certain types of state assistance.

In particular, children affected by domestic violence would be eligible to placement in specialized care institutions within the network of Children Affairs Services. They are also eligible to receive assistance in psychosocial rehabilitation centres. Moreover, Children Affairs Services would be responsible for developing protection measures for such children and informing them and their parents on available protection remedies and services. In its turn, Centres on social services for family, children and youth would create special services on supporting children survivors of GBV and domestic violence, including mobile psychosocial support teams and placement in specialized care institutions.

⁵ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-zaetu-pensijnogo-fondu-ukrayini-na-2019-rik>

⁶ To the moment, it is still pending due to the lack of President's signature. The full version available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58997

⁷ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-568>

The Resolution shall contribute to raising public awareness on GBV and domestic violence, as well as allow survivors to benefit from available protection services. As the Resolution does not specify that Ukrainian nationals are the only category eligible for the adopted protection measures, foreigners, refugees, asylum-seekers and stateless persons are not excluded from such benefits, which UNHCR consider a positive aspect.

Draft legislation

Verification and monitoring of state benefits

On 30 January 2019, the Government registered in Parliament draft law #9511⁸ suggesting the procedure of verification and monitoring of paying state benefits⁹ to be coordinated by the Ministry of Finance (MinFin).

The suggested verification process includes:

- preventive verification (when recipients apply for state benefits);
- current verification (systematic verification during providing state benefits);
- retrospective verification (verification after providing state benefits within a term not exceeding 3 years).

During this process, the MinFin enjoys unrestricted access to personal data of all recipients of social benefits¹⁰. The suggested mechanism lacks procedural guarantees thus introducing the possibility of arbitrary suspension of payments. Among others, there is no complaint mechanism. Moreover, the MinFin unlimited powers on access to personal data may raise serious concerns with regard to protection of personal data.

Amendments to Law on local self-governance on defining geographical scope of territorial communities

On 30 January 2019, the Parliament registered draft law #9515¹¹ suggesting a legal framework that regulates the geographical scope of territorial communities.

The draft initiative proposes to entrust the Government with defining geographical limits of territorial communities which will address the lack of clarity on the area of responsibility where territorial communities exert their competencies.

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⁸ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=65394

⁹ For purpose of this draft law state benefits include pensions, assistances, benefits, subsidies, scholarships etc. covered by state funds

¹⁰ The estimated number of such recipients is 11 million citizens of Ukraine

¹¹ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=65400