

Legislative Update

UNHCR update on displacement-related legislation | July 2019

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Adopted legislation

Electoral Code

On 11 July, the Verkhovna Rada adopted in a second reading the draft law #3112-1¹, introducing the Electoral Code. The final text is not public yet. According to the currently available information, the Code would be applicable to all types of elections. It would cancel the “single mandate district” election system, instead envisaging a “proportional” election system with open lists of candidates, i.e. it would introduce the possibility to rate candidates within the lists of political parties. This approach would be applicable to elections from 2023.

The Code is expected to simplify access of internally displaced persons (IDPs) to the full scope of voting rights, including in local elections, by indicating a place of factual residence as the voting address. Thus, the influence of the residence registration system at elections might be minimized.

Subvention to the local budgets

Two different decrees related to the allocation of subventions to local budgets were adopted in July.

On 5 July, the Cabinet of Ministers adopted its Decree #488-p² dividing the subvention from the State budget between the local budgets in the east of Ukraine to support territories affected by the armed conflict. The Ministry for Temporarily Occupied Territories and Internally Displaced Persons (the MinTOT) is responsible for consenting the mentioned division with the Parliamentary Budgetary Committee.

This is the fourth³ subvention to conflict-affected territories covering several settlements of the Donetsk oblast (Mariupol, Zvanivska amalgamated territorial community, Mariupol rayon – Kurakhove, Kostyantynivka,

¹ The full text available online (in Ukrainian): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=56671. To the moment, it awaits for a signature of the President

² The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-rozpodil-u-2018-roci-subvenciyi-z-derzhavnogo-byudzhetu-miscevim-byudzheta-na-zdijsnennya-zahodiv-shchodo-pidtrimki-teritorij-shcho-zaznali-negativnogo-vplivu-vnaslidok-7773>

³ Please see more details in UNHCR 2018 July, November and December Legislative Updates

Sloviansk), the Luhansk oblast (Sievierodonetsk), the Zaporizhzhia oblast (Prymorska amalgamated territorial community, Berdiansk) and the Kharkiv oblast (Pervomaysk rayon – Efremivka). The total allocated sum is 18 839 999 UAH.

On 6 July⁴, the Cabinet of Ministers adopted its Resolution #583 specifying the amount of subventions to local budgets from the state budget under the Emergency Credit Program to Restoration of Ukraine (the Program)⁵. It marks the next step in reallocating the balance of the first tranche received under the Program among the Donetsk, Luhansk, Dnipropetrovsk, Kharkiv, Zaporizhzhia, Odesa, Poltava, Kyiv and Kherson oblasts. The provided financial support is mostly aimed at contributing to durable housing solutions for IDPs and the restoration of infrastructural objects affected by hostilities in eastern Ukraine.

The subventions may be used for the overall development of the mentioned settlements and localities, thus improving the quality of life and access to different services for host and displaced populations.

Creation of temporary housing stock for IDPs

On 10 July, the Cabinet of Ministers promulgated its Resolution #582 of 26 June 2019⁶, creating the grounds for the establishment and use of temporary housing stock for IDPs. The Resolution specifies how to apply for and to receive temporary housing in hosting settlements. Special commissions established and functioning within local authorities would decide on the inclusion of an applicant to a waiting list of beneficiaries of temporary housing solutions. The prioritization of applicants shall be done based on a scoring system linked to vulnerability criteria (such as disabilities, number of children in the family or participation in the ATO).

This legal development introduces one of the possible solutions to addressing housing needs of IDPs and contains provisions for implementation at the local level. However, the Resolution lacks clarity on certain important provisions. For example, it is not clear whether “temporary housing stock for IDPs” is a separate category or is a part of the general “temporary housing stock”. Since temporary housing stocks are very limited throughout Ukraine, there might be no available temporary apartments/rooms for IDPs in case the “temporary housing stock for IDPs” is a subcategory of the “temporary housing stock”. Additionally, only IDPs from among Ukrainian citizens may be eligible for temporary housing as per the Resolution. This provision contradicts the definition of an internally displaced person provided for in Article 1(1) of the Law on IDPs and in the UN Guiding Principles on Internal Displacement. Therefore, this positive development would require some polishing and possible amendments after it has been piloted.

Compensation for destroyed housing in conflict area

On 10 July, the Cabinet of Ministers adopted Resolution #623⁷, introducing amendments to its Resolution #947 of 18 December 2013⁸. The latter regulates provision of financial assistance to individuals affected by emergencies, who continued residing at their place of residence. The amendments define a procedure for paying (1) a single time financial assistance for housing damaged by emergency/elimination of its consequences or (2) a financial compensation for housing destroyed by a military emergency caused by the armed aggression of the

⁴ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-postanovi-kabinetu-ministriv-ukrayini-vid-25-listopada-2015-r-1068-s-583-050719>

⁵ Please see more details in 2019 May Legislative Update

⁶ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-zatverdzhennya-poryadku-formuvannya-fondiv-zhitla-dlya-t260619>

⁷ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-vnesennya-zmin-do-postanovi-kabinetu-ministriv-ukrayini-vid-t100719?fbclid=IwAR0j36D8OSdPoBh0ChgQaRMQGIH3hj2wLkfSP17JG0O1okRNaGgUc3OxDGw>

⁸ The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/947-2013-%D0%BF>

Russian Federation. In this update we provide information on the compensation related procedure only, since it concerns conflict-affected population in the current setting.

The financial compensation shall not exceed 300,000 UAH. The decision on payment is taken by specially established commissions⁹ in the self-government bodies or the military-civil administrations. To receive compensation, a person should apply to the said commission. Documents to be attached to the application include a certificate on the status of a person affected by an emergency (military),¹⁰ a copy of the passport or other ID document and an ID tax code, as well as property documentation and an inspection act¹¹. After the commission considers applications, positive decisions are submitted to a respective oblast state administration, which transmits a request for funding to cover compensation payments to the MinTOT. It is expected that a special budgetary programme will be introduced to cover compensation related payments.

This is an important step in ensuring that conflict-affected population receives compensation for destroyed housing. Several crucial elements to note are:

- The Resolution would be applicable only to individuals whose destroyed housing is located at the government-controlled territory, and
- Only if such individuals remained residing at the same settlement, and
- If the housing has been fully destroyed, and
- If a person has not received other types of assistance for the restoration of housing (e.g. by humanitarian organizations).

Receiving compensation under this Resolution implies impossibility to receive other forms of financial assistance/compensation in future.

The Resolution will become fully applicable after the MinTOT elaborates and adopts a form of the inspection act of the destroyed property and a typical “terms of reference” for the establishment of commissions for the assessment of compensation related applications.

Strategy on integrated border management

On 24 July, the Cabinet of Ministers adopted the National Strategy on integrated border management till 2025. At the time of the preparation of this update, the final text was not yet available. According to the official press-release¹², the adopted Strategy reflects best international practices, as well as modern approaches to integrated border management. The National Security and Defense Council (NSDC) is in charge of coordination and implementation of the public policy in the field of integrated border management, as well as responsible for urgent measures to neutralize threats to national security in the field of migration policy¹³.

Available information on the Strategy’s content with regard to access to asylum and stay of irregular stateless persons highlights the following aspects:

- Introducing restrictions and a clearer definition of the grounds for acquiring citizenship of Ukraine, strengthening the responsibility for violations in this area;

⁹ The Ministry of TOT is expected to elaborate a basic framework for the establishment of such commissions.

¹⁰ Local self-government bodies/military-civil administrations issue these certificates.

¹¹ Local self-government body/military-civil administration issue these acts which shall confirm the destruction of housing. However, the form of the inspection act has not been approved yet. This action is expected from the Ministry of TOT.

¹² The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/news/uryad-shvaliv-strategiyu-integrovanogo-upravlinnya-kordonami>

¹³ The full text available online (in Ukrainian): <http://www.president.gov.ua/documents/722018-23814>

- Elaboration of a mechanism for early verification of the grounds for entry of foreigners and stateless persons who originate from countries with high migratory risk¹⁴ through the use of e-notification about their intention to visit Ukraine. This may complicate access to the territory and to asylum procedures for asylum-seekers.
- Introducing amendments to the Code of Administrative Offenses to strengthen the liability for violations of the rules of employment, admission to educational institutions, housing, registration of foreigners and stateless persons, assistance in the provision of other services, as well as for the violation by foreigners and stateless persons of the Rules of Stay in Ukraine.
- Improvement of the mechanism for the implementation of the public policy on the integrated border management, including measures on ensuring proper functioning of the four-level control system over entry to and stay in Ukraine of foreigners and stateless persons, introduction of relevant procedures and the mechanism of mutual access to the information systems of authorized state bodies.

Other developments

Cabinet of Ministers Working Group on restoring the bridge near EECPP “Stanytsya Luhanska”

In July, the Cabinet of Ministers established the Working Group on restoring the bridge near the entry-exit checkpoint (EECP) “Stanytsya Luhanska”¹⁵. The Group includes representatives of the Ministry of Infrastructure, Ukravtodor, the Ministry of Defence, the MinTOT, the Ministry for Regional Development, the State Border Guard Service, the Luhansk military-civil administration and several projects and some expert organizations (not specified).

The main tasks of this Working Group include the rapid elaboration of the terms of reference for restoring the bridge (including bill of quantities, scales, financial sources and working modalities). Their performance will be assessed against the proper EECPP functioning.

Prolongation of “I have a right” campaign until 2022

On 17 July, the Cabinet of Ministers adopted its Decree #552¹⁶, prolonging the awareness raising campaign “I have a right” until 2022. The campaign is led by the Ministry of Justice. The adopted initiative would contribute to raising awareness about human rights and mechanisms for their protection, including the right to free legal assistance. Launched in 2017, this wide-scale campaign covers such important topics for IDPs and conflict-affected population as “I have a right to vote”, “Paralegal for each community”, “Human rights protection in Crimea”, “Stop bullying” and “Stop domestic violence”. Further raising awareness campaigns contributing to human rights protection of IDPs and conflict-affected population may be expected.

Presidential Order on access to e-services for individuals and legal entities

On 29 July, the President signed its Order #558/2019¹⁷, obliging the Cabinet of Ministers to ensure access to public e-services. The Order aims at establishing a unified e-platform that would accumulate all types of

¹⁴ The full list available online: <http://usa.mfa.gov.ua/en/page/open/id/5206>

¹⁵ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/news/stvoreno-robochu-grupu-z-vidnovlennya-mostu-u-rajoni-kpiv-stanicya-luganska-gennadij-zubko?fbclid=IwAR30JiSeDCtYADoesyfG7TbZY7prSV4mHc6ZlbODYq9serkDtS-NxWQQkXk>

¹⁶ The full text available online (in Ukrainian): <https://www.kmu.gov.ua/ua/npas/pro-realizaciyu-pravoprosvitnickogo-proektu-ya-mayu-pravo-u-20202022-rokah-s-552-170719>

¹⁷ The full text available online (in Ukrainian): https://www.president.gov.ua/documents/5582019-28853?fbclid=IwAR1n0qeVHn-AVwk0yAN79uYIbPAzLn9TY6KiP5HXIbk1P6wA_V62iLsfa_g

administrative services, accessible through different types of digital devices. For achieving this purpose, the Cabinet of Minister should eliminate the submission of paper documents as a prerequisite for accessing services and instead use available state-owned e-registers.

Moreover, the Cabinet of Ministers jointly with the Central Election Commission should introduce a pilot mechanism for the temporary change of the place of voting through submitting an e-application. The President also suggests introducing the possibility of e-voting during elections and referenda.

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