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## DRC Legal Alert: Issue 103 (1 April – 31 May 2024)

### Social Protection and Labour

#### 1. The Cabinet Changed its Approach to Housing and Utilities Subsidies in Response to the Energy Crisis

**Background information:** 22 March 2024, was the largest attack on Ukraine's energy infrastructure since the conflict escalation and one of the most intense against civilian infrastructure. The attack left 1.9 million people without electricity.<sup>1</sup>

**Recent developments:** On 8 May 2024, the Cabinet adopted [Decree №521](#), amending legislation related to the provision of Housing and Utilities Subsidies (HUS)<sup>2</sup>.

#### Provision of HUS for Kharkiv Oblast:

**Background information:** The calculation of the amount of subsidy is made with a formula that is based on the social standards of utility consumption.

**Recent developments:** The Cabinet applied an increased coefficient (5) to address the needs of actual residents of Kharkiv Oblast during the non-heating season.

The increase coefficient to the social standards helps:

- to increase the amount of subsidy for the recipients;
- to affect eligibility criteria so that HUS might cover a larger number of the population in need.

**NB:** the subsidy for electricity in the non-heating season of 2024 is provided regardless of the provision or non-provision of the service.

#### Re-application for HUS

**Background information:** On 11 April 2024, the Pension Fund communicated that HUS for the next annual term will be automatically assigned to the majority of recipients until 30 April 2025.<sup>3</sup>

**Recent developments:** According to [Decree № 521](#), starting from June 2024, the Pension Fund of Ukraine stops the provision of HUS for all recipients, who:

<sup>1</sup> Link to the source: [Ministry of Energy](#)

<sup>2</sup> The HUS is the largest means-tested programme, which provides financial support for the payment of utility bills. Source: [World Bank Document](#)

<sup>3</sup> Link: [3 травня 2024 року більшості українців, які отримують житлову субсидію, на неопалювальний сезон її буде призначено автоматично - Пенсійний фонд України \(pfu.gov.ua\)](#)

- as of 24 February 2022, lived or resided in the NGCA or areas experiencing active hostilities;
- have not applied for reassignment of subsidies or benefits since 24 February 2022.

To continue receiving HUS from 1 July 2024, it is necessary to apply to the Pension Fund of Ukraine with the relevant application and documents. The application can be submitted:

- in person;
- by mail (to the address of the Fund's body);
- online (through the web portal of electronic services or the Diia portal).

**NB:** According to the amendments, the Pension Fund should notify the recipients about the necessity to reapply for HUS by 1 July 2024. Despite a list of possible ways for the notification (i.e. mailing a paper notice; an electronic notice; through the web portal of electronic services of the Pension Fund; by telephone, etc.), the Pension Fund has made relevant notification only through the electronic services website of the Pension Fund.

Digital illiteracy and low internet connectivity can become access barriers for persons, especially elderlies, to make successful reassignments.

### **The term of payment of state social assistance to vulnerable populations**

**Background information:** On 7 March 2022, the Cabinet adopted [Decree №215](#), automatically extending payment of social assistance for the period of Martial Law and one month after its termination or suspension. Considering the current fiscal context, the Cabinet has gradually reduced the scope of extended social assistance programmes.

**Recent developments:** [Decree № 521](#) determines three main Social Protection programmes that were extended for persons residing on the territories experiencing active hostilities, or NGCA:

- state social assistance to low-income families;
- child benefit for single mothers;
- state social assistance to persons not eligible for a pension payment.

Persons with disabilities residing in the respective territories where medical and social expert commissions temporarily do not exercise their duties continue receiving assistance.

## **2. The Cabinet Approved a List of Documents Necessary to Apply for Disability Status**

**Background information:** The [Regulations](#) on the procedure, conditions and criteria for determining disability did not include the list of documents that are necessary to undergo a medical and social examination when applying for disability status. This has been leading to unclear scopes of documents that applicant had to provide.

**Recent developments:** On 3 May 2024, the Cabinet adopted [Decree №501](#), amending conditions and criteria for determining disability status. Principal novelty became the list of documents that are necessary to apply for disability status.

According to the Decree, to undergo medical and social expertise, a citizen of Ukraine applying for a disability status must submit:

- Passport;
- Number of tax ID;
- IDP Certificate (if any);
- Military ID (for men aged 18 to 60, if any);
- Special certificate confirming that person was in captivity (if relevant).

**NB:** It might take several days and at least two additional institutions to be visited personally to receive or renew military ID for military-liable persons. The fact that Military ID was added to the list of necessary documents to submit to apply for disability status might potentially become additional access barriers for men aged 18 to 60.

### **3. Vulnerable Population Gets Additional Social Protection Through the Coordination with WFP**

**Background information:** On 2 February 2024, the Cabinet adopted [Decree №110](#), implementing another financial assistance programme by the United Nations World Food Programme (WFP). Additional social support will be provided automatically to persons with disabilities from childhood and children with disabilities who meet the eligibility criteria.<sup>4</sup>

**Recent developments:** On 10 May 2024, the Cabinet adopted [Decree №531](#), elaborating social protection of vulnerable population.

Principal amendments are related to the eligibility criteria:

Before	After
Only recipients of state social assistance to persons with disabilities from childhood and children with disabilities were eligible for additional social support from the WFP.	The current norm envisages that persons who get “other social assistance determined by the WFP” are also eligible for additional social support from the WFP.

**NB:** This small amendment can potentially lead to better coverage of bigger number of eligible persons by additional social support from the WFP.

### **4. UNICEF Continues to Support Families with Children**

**Background information:** On 1 December 2023, the Cabinet of Ministers approved [Decree №1255](#), implementing a financial assistance programme by UNICEF. The additional financial aid was envisaged for large families and families with children with disabilities residing in certain frontline areas in the Dnipro, Zaporizhzhia, Kharkiv, and Donetsk Oblasts to provide support during the autumn and winter seasons.

**Recent developments:** On 17 May 2024, the Cabinet approved [Decree №584](#), adopting another joint project with UNICEF. The project substitutes the previous one (the one approved by Decree №1255 on 1 December 2023) and envisages financial aid to families with children in order to help them mitigate the consequences of war.

<b>Family composition</b>	<ul style="list-style-type: none"><li>• families with children, where one of the family members is a person with a disability or a child with a disability;</li><li>• large families with children under the age of 18;</li><li>• single-parent families;</li><li>• low-income families with children under the age of 18.</li></ul>
<b>Areas covered by the programme</b>	<ul style="list-style-type: none"><li>• Sumy and Kharkiv oblasts, the population of which is (was) subject to mandatory evacuation from 1 May 2024;</li><li>• other regions specified by UNICEF.</li></ul>

<sup>4</sup> For more information, please, see [DRC Legal Alert, Issues 102](#)

<b>Additional eligibility criteria</b>	<p><b>Programme is available for current recipients of one or more of the following social assistance programmes:</b></p> <ul style="list-style-type: none"><li>• monthly aid to a person who lives with a person with a disability of group I or II due to a mental disorder;</li><li>• child benefit for single mothers and child benefit for children under guardianship or custody;</li><li>• assistance to low-income families;</li><li>• large family assistance;</li><li>• assistance to orphans and children deprived of parental care, financial support for foster parents and adoptive parents (family-type children's homes), etc.;</li><li>• assistance to persons with disabilities from childhood and children with disabilities;</li><li>• other social assistance specified by UNICEF.</li></ul>
<b>Amount of benefits</b>	UAH 3,600 per month is provided for three months <sup>5</sup> for each recipient of state social assistance.
<b>How to apply</b>	Financial assistance is granted automatically to eligible persons <sup>6</sup>

### **5. Promotion of the Employment of Persons with Disabilities**

On 10 April 2024, the Ministry of Social Policy emitted [Order №172-H](#), imposing a mechanism of automatic identification of persons with disabilities who can be employed.

The mechanism becomes possible through data sharing between the Register of Insured Persons of the State Register of Compulsory State Social Insurance and the Centralized Disability Data Bank. Information about persons with disabilities who can be employed is sent to the State Employment Centre to proceed with further enrolment.

Regional employment centres are responsible for the employment of persons with disabilities. For this purpose, regional employment centres are obliged to:

- verify infrastructure accessibility to the proposed working place;
- inform the employer of the existing possibilities and necessary support for reasonable accommodation of the workplace.

### **6. The Parliament safeguards employees' rights in the event of business transfers**

**Background information:** In accordance with the Association Agreement, Ukraine has committed itself to gradually approximating its legislation to EU law, standards, and practices in the fields of employment, social policy, and equal opportunities.

**Recent developments:** On 25 April 2024, the Verkhovna Rada introduced [Law №3677-IX](#), establishing procedures for safeguarding employees' rights in the event of transfers of undertakings, businesses, or their parts.

According to the amendments, in the case of a transfer of a legal entity, the employment relationship of employees continues and the rights and obligations under the employment contracts are preserved.

The main purpose of the amendments is:

<sup>5</sup> Financial assistance can be paid in a lump sum of UAH 10,800.

<sup>6</sup> Except for recipients of state social assistance who have independently evacuated from the territories, subject to mandatory evacuation. In this case= additional registration is required.

- to preserve jobs or ensure employment of employees who have been made redundant as a result of a change in ownership of the employing company;
- to reduce cases of unjustified dismissal of employees for economic reasons.

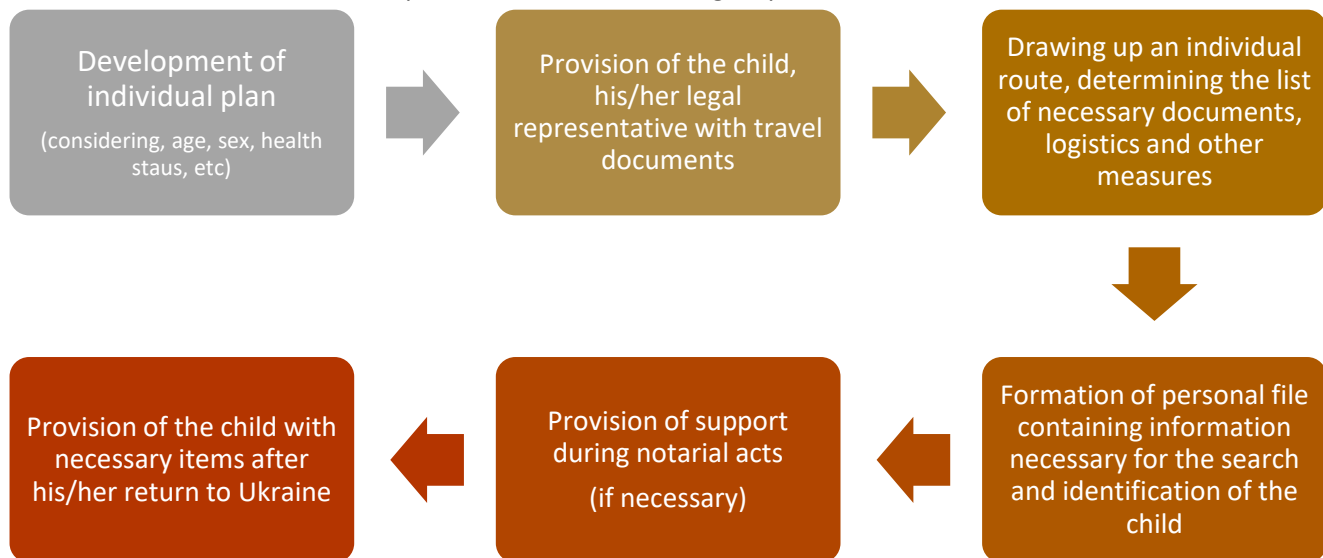
## Child Protection

### 7. The Cabinet Adopts Procedures on Repatriation of War-affected Children

**Background information:** As of 13 September 2023, 19,546 Ukrainian children deported or forcibly displaced from NGCA have been identified. Through ad hoc mechanisms, NGOs, in partnership with government agencies, only 386 children were repatriated.<sup>7</sup>

**Recent developments:** On 14 May 2024, the Cabinet adopted [Decree №551](#), establishing the Procedure for Identification and Return of Children Deported or Forcibly Displaced as a result of war. The Procedure defines the mechanism of interaction between entities involved in the search, return, social protection, and reintegration of both children deported and children at risk of deportation or forced displacement because of war.

Considering the aim to return to Ukraine deported or forcibly displaced children, an individual plan for return was created for each child. Individual plan for the return of the child is developed by the Ministry of Reintegration<sup>8</sup> with the involvement of public associations and charitable foundations, the child's authorised legal representative and other authorised bodies. The individual plan includes the following steps:



### 8. Fee-exempt Passports for Travel Abroad for Orphans

**Background information:** According to the Ministry of Social Policy, about 3,000 orphans and children deprived of parental care are abroad and are registered with the consulate<sup>9</sup>.

**Recent developments:** On 12 April 2024, the Cabinet approved [Decree №415](#), introducing amendments to the procedure for issuing passports at consular offices. Thus, in 2024, orphans and children deprived of parental care are

<sup>7</sup> Link to the source: [Єдиний механізм повернення депортованих дітей: РЦПЛ представив Концепцію репатріації українських неповнолітніх \(rchr.org.ua\)](#)

<sup>8</sup> Official name: Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine.

<sup>9</sup> Data provided as of 19 May 2023, link to the source: [Міністерство соціальної політики України. \(msp.gov.ua\)](#)

exempt from paying a consular fee<sup>10</sup> for issuing a passport for travel abroad, and automated data processing during the issuance of a passport for travel abroad.

## Housing, Land and Property

### 9. The Cabinet Improved Access to Temporary Housing for Some Categories of IDPs

**Background information:** Residential premises from the fund<sup>11</sup> are provided free of charge to internally displaced persons and their family members for temporary use for a period of up to one year, with the possibility of extension for the next term if there are no changes in their status and if they have not acquired another place of residence.

**Recent amendments:** On 29 March 2024, the Cabinet adopted [Decree №351](#), adopting additional benefits for some categories of internally displaced persons (IDPs) enjoying temporary housing. According to the amendments, certain categories of IDPs obtained a right to charge-free temporary housing without any time limit.

<b>Time limits to live in temporary housing for IDPs</b>	<b>Before:</b> up to one year, with the possibility of an extension <b>Recent amendments:</b> no time limits are imposed during the period of Martial law and for six months after its termination or suspension
<b>Eligible categories of IDPs</b>	<ul style="list-style-type: none"><li>• large families;</li><li>• families with children;</li><li>• pregnant women;</li><li>• persons who have lost their ability to work;</li><li>• persons of retirement age from among those whose housing was destroyed or became uninhabitable due to the war.</li></ul>
<b>Cost of living in temporary housing</b>	Temporary housing for IDPs is charge-free, however, the person pays the cost of utilities.

## Civil Documentation and Legal Aid

### 10. Temporary IDs for Ukrainians on NGCA who Lost their Passports

On 30 April 2024, the Ministry of Reintegration issued [Order №130](#), adopting the Procedure to issue temporary ID for Ukrainians who are on NGCA or in the areas experiencing active hostilities.

<b>Eligibility criteria</b>	<ul style="list-style-type: none"><li>• Persons who lost their Internal passport and/or passport for travel abroad but there is information about the issuance of such passports in the state register</li><li>• Persons under the age of 18 in respect to whom there is no information in the relevant state register</li><li>• Persons under the age of 14 upon the application of their parents or guardians</li></ul>
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<sup>10</sup> Consular fee tariffs as of 2024 are EUR 83 for issuing a passport and EUR 37 for automated processing of personal data for issuing the passport.

<sup>11</sup> The fund of housing intended for temporary residence of internally displaced persons (hereinafter referred to as the fund) is formed by village, city councils or their authorised bodies (hereinafter referred to as the authorised bodies) by means of purchase, acquisition, construction, reconstruction or major repairs of housing.

<b>How to apply</b>	Online via the official e-mail address <sup>12</sup> of the Ministry of Reintegration
<b>How to receive the document</b>	The applicant can designate the person on GCA who will receive the document and then bring it to the applicant. If there is no such person designated or the person does not respond, the Ministry of Reintegration can send the documents through international organisations, NGOs, and charitable organisations.

### **11. The Ministry of Justice Adopts Methodology on Calculation of Eligibility to Free Secondary Legal Aid**

**Background information:** On 18 August 2023, the Ministry of Justice issued [Order №2994/5](#) establishing the Procedure for submitting an electronic application for free secondary legal aid (FSLA). This amendment is of particular importance for persons who had limited access to FSLA, for example, residents of the Non-Government-Controlled Area (NGCA), Ukrainians abroad, and persons with disabilities.<sup>13</sup>

According to current legislation, persons with an average monthly income less than two subsistence minimums<sup>14</sup> have this right to FSLA. IDPs are eligible for FSLA considering their status.

**Recent developments:** On 15 May 2024, the Ministry of Justice approved [Order №1445/5](#), presenting the Methodology for the Calculation of the Average Monthly Income for Determining the Eligibility of Persons for Free Secondary Legal Aid (FSLA). The calculation of the average monthly income is carried out by the free legal aid centre upon the application for free secondary legal aid. The applicant provides additional documents that confirm his/her income.

<b>Included</b>	<b>Excluded</b>
<ul style="list-style-type: none"><li>any monthly (annual) taxable income (e.g. salaries);</li><li>pension payments or monthly lifetime allowance, including pensions from foreign sources;</li><li>social benefits, including benefits for housing and communal services, purchase of solid fuel and liquefied gas;</li><li>other (self-declared incomes).</li></ul>	<ul style="list-style-type: none"><li>certain social benefits (maternity benefits, “Baby box”, Childbirth grant (one-off), social assistance to orphans, children with rare diseases, children with disabilities, compensation for “municipal nanny” services);</li><li>alimony (both paid and received);</li><li>Housing and Utilities Subsidies;</li><li>IDP Allowance;</li><li>pensions and salaries that are allocated but not received;</li><li>other.</li></ul>

For persons, registered as private entrepreneurs (PE), it is presumed, disregarding factual income, that they get:

- UAH 8,000<sup>15</sup> – PE on the first group of unified taxation;
- UAH 16,000<sup>16</sup> – PE on the second group of unified taxation;

<sup>12</sup> Mail to: [info@minre.gov.ua](mailto:info@minre.gov.ua)

<sup>13</sup> For more information, please, see [DRC Legal Alert, Issue 99](#)

<sup>14</sup> UAH 6,056 as of 1 January 2024.

<sup>15</sup> One minimum salary as of 1 April 2024

<sup>16</sup> Two minimum salaries. One minimum salary is UAH 8,000 as of 1 April 2024

- UAH 24,000<sup>17</sup> – PE on the third group of unified taxation.

As a rule, incomes are considered for a 3-month period prior to the month of application, and the formula is:

$$\frac{1st\ month\ income + 2nd\ month\ income + 3d\ month\ income}{3} = Average\ Monthly\ Income$$

## Other

### 12. The Cabinet Facilitated Administrative Procedure to Receive Status of Person with Disability as a Result of War

On 9 April 2024, the Cabinet adopted [Decree №416](#), facilitating the procedure of establishing the connection of disability with injury, contusion, mutilation, or disease sustained due to the war. According to the amendments, persons with disabilities from military personnel should apply directly to the structural unit for veterans' policy on the local level or the administrative service centre. The decision on the provision of the status of a person with a disability due to the war should be taken within a month.

**NB:** For civilians, the procedure remained unchanged. The Medical and Social Expert Commission decides on the status of the decision of the Interministerial Commission.

### 13. The Government Amends Approach to Mobilisation and Military Registration

**Background information:** During 2022 (Decree №194 of 3 March 2022)<sup>18</sup> and 2023 (Decree №76 of 27 January 2023)<sup>19</sup>, the Government has amended the approach to conscription as well as the conscription exemption for persons liable for military service. These decrees were previously subject to interpretation. In this regard, the Government decided to change the approach to military service, mobilisation, and military registration.

**Recent developments:** On 11 April 2024, the Verkhovna Rada signed [Law №3633-IX](#) amending certain legislative acts of Ukraine on military service, mobilisation, and military registration. The law required subsidiary legal acts necessary for outlining implementation procedures.

- The Law envisages exemption from mobilisation for, among others, humanitarian organisations.

The newly adopted law continues to include categories of workers in organisations that are critical for ensuring the vital activities of the population. This could be interpreted to include humanitarian workers. However, the criteria and procedure for determining the organisations that are critical for the functioning of the economy and ensuring the vital activity of the population during the special period were additionally adopted by the Cabinet of Ministers of Ukraine.

- The Government encourages the actualisation of personal data in the military register.

	Male (age 18 to 60)	Female (professions related to the relevant military specialties)
Persons liable for military service	60-day term to specify their residential address, communication numbers, e-mail addresses, and other personal data	
Persons deregistered from the military register due to moving abroad	30-day term to register back	

<sup>17</sup> Three minimum salaries. One minimum salary is UAH 8,000 as of 1 April 2024

<sup>18</sup> For more information, please see [DRC Legal Alert Issue 76](#)

<sup>19</sup> For more information, please, see [DRC Legal Alert Issue 89](#)



- Digitalisation of the military register.

While the territorial recruitment and social support centres used to rely on paper-back archives, newly adopted legislation improves the approach to digitalisation of the process, including:

- Possibility to renew personal data in the military register through online services (electronic services are to be developed).
- Enhanced data-sharing process within state registers.
- Males aged 18 to 60 who hold a military ID.

During the mobilisation, male citizens of Ukraine aged 18 to 60 years are obliged to have a military registration document (military ID). The military ID should be present at the request of the officers of territorial recruitment and social support centres or police officers.

- Consular services are accessible only to males who have actualised personal data in the military register.

Consular services for male citizens of Ukraine aged 18 to 60 are carried out only if their data on the military record is actualised.

The military ID became obligatory for the issuance of a passport of a citizen of Ukraine and a passport of a citizen of Ukraine for travelling abroad to male citizens of Ukraine aged 18 to 60 years.

- Military transport duty is established for the needs of the army.

The military transport duty envisages the free-of-charge involvement of vehicles to meet the needs of the armed forces of Ukraine. The number of vehicles by type and brand is determined upon the request of territorial recruitment and social support centres. The only vehicle owned by a citizen is not subject to military transport duty.

- Additional financial backing to support conscripted persons and their spouses.

The financial support of citizens of Ukraine related to conscription, assignment, or acceptance for military service has been slightly enhanced:

- Persons who are dismissed from work due to the conscription should be provided severance pay in the amount of two subsistence minimums for able-bodied persons<sup>20</sup>.
- In the event of signing the first contract, servicemen are entitled to:
  - compensation of 50 percent of the down payment on a loan secured by a mortgage; and an additional UAH 100,000 after the first and second years of military service.
  - certificate for the purchase of a vehicle for UAH 150,000 within three months from the date of conclusion of such a contract. The procedure should be further adopted by the Cabinet of Ministers of Ukraine.
- For conscripted persons and their spouses, no fines, sanctions, or penalties for non-fulfilment of obligations to enterprises, institutions, and organisations, including banks and individuals, as well as interest for using the loan are charged, except for loan agreements for the purchase of housing and/or a car.

### **Other developments**

- 1. Adopted Procedure to ensure work of the Hotline of the Commissioner for Persons Missing in Special Circumstances** ([Order of the Ministry of Internal Affairs №260](#) of 23 April 2024)
- 2. The Cabinet adopted the Procedure and Conditions for the Budgetary Subventions for the Establishment of a Network of Specialized Support Services for Victims of Domestic and/or Gender-Based Violence** ([Decree №616](#) of 30 May 2024)

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<sup>20</sup> One Subsistence minimum for able-bodied person is UAH 3,028 as of 1 January 2024.

- 3. The Cabinet further elaborated on issues of the functioning of places of temporary residence for internally displaced persons ([Decree №622](#) of 30 May 2024)**

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