



DRC LEGAL ALERT: Issue 76
24 February – 9 March 2022

1. Cabinet Suspended all Accounting and Reporting Requirements for Charitable Assistance

On 5 March 2022, the Cabinet issued [Decree № 202](#) suspending all accounting and reporting requirements under existing law on receiving, using, and accounting for charitable assistance. The suspension applies to charitable assistance provided both by an individuals and legal entities - national or international. This Decree will be in force during martial law. International organizations and NGOs, local non-profit organizations and volunteer groups providing humanitarian assistance to the civilian population in need are meant to benefit from this Decree.

2. Cabinet Recognizes Vehicle Fuel as Humanitarian Aid

On 9 March 2022, the Cabinet issued [Decree № 238](#) recognizing fuel for vehicles as humanitarian aid. The Ministry of Economy together with the State Agency of Reserve are made responsible for the distribution of vehicle fuel as humanitarian aid. This humanitarian aid will be distributed among the Armed Forces, military units, organizations delivering humanitarian aid and other organizations responding to the needs of the civilian population. The list of such organizations will be subject to approval by the Ministry of Economy.

Organizations need to apply to the Ministry of Economy to receive vehicle fuel in the form of humanitarian aid. Organizations will be able to receive fuel at gas stations that have set up arrangements with the Ministry of Economy. The list of organizations eligible to receive fuel at gas stations has not been published as of 11 March 2022.

3. Cabinet Removes all Barriers on Importing Humanitarian Materials During Martial Law

On 1 March 2022, the Cabinet issued [Resolution № 174](#) simplifying the customs procedure for importing humanitarian aid during martial law. The procedure brings in the following changes:

Before	After
Ministry of Social Policy was responsible for determining items that would be recognized as humanitarian aid	No recognition procedure is needed
Beneficiaries of the aid had to be registered in the Unified Registry of Humanitarian Aid Beneficiaries	No registration is required

Provider of the humanitarian aid had to present relevant licenses, and secure approval of necessary documents on safety and quality of products

Provider of humanitarian aid only need to submit a disclosure [form](#) at customs checkpoints

(Amendments as of 9 March 2022 by [Resolution №235](#))

4. Cabinet Provides Financial Aid to Certain Taxpayers and Individual Entrepreneurs

On 4 March 2022 the Cabinet issued [Order № 199](#) providing financial support to officially employed workers and individual entrepreneurs. Eligible individuals and entrepreneurs will receive a one-time financial aid of 6500 UAH.

Eligibility

Worker	Individual Entrepreneur
<p>Officially employed under labour contract, gig-contract, civil contract or other types of official employments</p> <p>His/Her employer is:</p> <ul style="list-style-type: none"> Registered as UST payer in certain regions approved by the Cabinet; Filed a tax reporting for the IV quarter of 2021 or annual tax reporting for 2021; Is not a state enterprise or state social insurance funds 	<ul style="list-style-type: none"> Registered as UST payers in certain regions approved by the Cabinet; Filed a tax reporting for the IV quarter of 2021 or annual tax reporting for 2021; Are not state enterprise or state social insurance funds.

Process for Receiving the Financial Aid:

- 1) Download the online-application ‘Diia’ on the phone and go through electronic identification;
- 2) Choose ‘ePidtrymka’ service in ‘Diia’;
- 3) Open a bank account ‘ePidtrymka’ in a bank authorized by the Ministry of Digitalization (click [here](#) for the list of banks);
- 4) File an application for financial support in ‘Diia’ (Name\surname, date of birth, individual tax number or passport number, IBAN – number).

The program called e-Support is available in 14 Oblasts. [Resolution №204-p](#) of 6 March 2022 and [Resolution № 213-p](#) of 11 March 2022 provides the list of the locations.

5. Cabinet Approves List of Humanitarian Aid Items

On 7 March 2022 the Cabinet issued [Decree № 224](#) providing a list of items that are recognized as humanitarian aid during martial law. This list includes mainly food, essential goods, technical and medical equipment, clothes etc. The adoption of the Decree means that there is no need for the Commission on Humanitarian Aid, under the supervision of the Cabinet, to recognize such items as humanitarian aid every time the items are transported across borders. The list can be accessed [here](#).

6. Cabinet Provides Procedure for Temporary Exemption from Conscription

On 3 March 2022, the Cabinet adopted [Resolution № 194](#) introducing a procedure for temporary exemption from conscription for individuals with certain categories of occupation and employment. In general, persons belonging to the following categories are eligible to receive the exemption:

- Servicemen of State authorities or other State organs;
- Workers of companies, enterprises and organizations responding to the needs of the Armed Forces of Ukraine, other military units or the civilian population;
- Workers of banks used for operations during the special regime;

Notably, the second category in the list above include workers of organizations that respond to the needs of the civilian population. This could be interpreted to include humanitarian workers. The procedure for securing temporary exemption is as follows:

- 1) The State authority or other State organ sends a list of persons (special form can be accessed [here](#)) who should be temporary exempted from conscription to the Ministry of Economy. This list is subject to approval by the Ministry of Defense;
- 2) The Ministry of Economy combines the lists and make a Decision on a temporary exemption. Such a Decision has to be made in one day;
- 3) A copy of the Decision is sent to the Ministry of Defense and organs that provided the proposals;
- 4) The State authority or other State organ gives a copy of the Decision from the Ministry of Economy to the person exempted from military service;
- 5) The Ministry of Defense through its General Staff informs territorial centers of recruitment and social support on the Decision of the Ministry of Economy within a day.

Drivers Delivering Humanitarian Aid can be Exempted: There is a [special procedure](#) on the temporary exemption for drivers who deliver goods for the Armed forces of Ukraine, military units as well as drivers delivering medical equipment and humanitarian aid. Decisions on such persons are made by the Ministry of Infrastructure or local military administrations. Such organs will send their decisions on exemptions to the State Border Guard Service in order to provide a free passage for such drivers.

The term of the exemption is six months. Any exemption granted will be terminated under the following circumstances:

- Automatic termination after six months;
- The company, enterprise or organization responding to the needs of the Armed Forces of Ukraine, other military units or population or were released from such responsibilities;
- Dissolution of State authority, other State organs, company, enterprise or organization;
- Termination of employment of the person covered by the exemption.

7. President Established Coordination Hub on Humanitarian and Social Issues

On 2 March 2022 the President issued [Order No. 93/2022](#) establishing Coordination Hub on Humanitarian and Social Issues. The purpose of this hub is to establish effective cooperation with military administrations and diplomatic representatives of foreign countries on humanitarian aid issues. The Hub is headed by the Head of the Office of the President.

8. Cabinet Establishes Coordination Center on Food, Medicine, Water and Fuel Supplies

On 28 February 2022 the Cabinet established a Coordination Center on Food, Medicine, Water and Fuel Supplies through [Order № 196-p](#). The Center consists of representatives of the Government and business communities (mainly food and medicine suppliers). It is co-headed by the First Deputy Prime Minister Yuliia Svyrydenko and the Deputy Head of the Office of the President Rostyslav Shurma. The purpose of the Center, in the [words](#) of the Prime Minister of Ukraine Denys Shmyhal, is to create ‘mechanisms for a stable supply of food, medicine and essential goods.

9. Cabinet Prescribes Rules for the Use of Humanitarian Donation Received by the Government

On 7 March 2022 the Cabinet issued [Decree № 220](#) establishing rules and procedure for receiving humanitarian donations by the government, as well as the use of the donations for humanitarian purposes. Any such donation to the government from individual or legal entities, in local or foreign currencies, will be deposited in a current account opened and managed by the National Bank of Ukraine. A special Commission under the supervision of the Ministry of Social Policy and headed by the Deputy Minister is responsible for the distribution of money among local governments, military administrations, sanatoriums, companies, enterprises, charitable and humanitarian organizations.

Money from the bank account can be used exclusively for the purpose of procuring food, hygienic items, clothes, essential goods, medicine, humanitarian aid, evacuation, and other activities in support of the civilian population.

10. Cabinet Defers Customs Payment for Food and Essential Goods

On 9 March 2022 the Cabinet issued [Decree № 236](#) deferring customs payment for food and certain essential goods. These items include medicine, medical equipment, food, items of essential import and military goods. The deferment of payment will be in force till the end of martial law. Importers only need to provide an application in a written form and customs declaration at the customs crossing points to qualify for the deferment of customs payments.

11. Cabinet Changed Rules for State Registration During Martial Law

On 6 March 2022 the Cabinet adopted [Resolution № 209](#) introducing new rules for different types of State registration during martial law. Accordingly:

- State registration can be done only by persons specially authorized by the Ministry of Justice;

- State registration can be conducted on the basis of electronic documents signed with the use of qualified digital signature;
- State registration takes place irrelevant of the location of property, legal persons, individual entrepreneurs or civil society organizations;
- Administrative fee is suspended for the registration of charitable organizations or other organizations supporting Armed forces, military units, and victims of armed conflict.

12. Cabinet Grants Five Year Extension of Validity of Ukrainian International Passport

On 28 February 2022 the Cabinet adopted [Decree № 170](#) granting 5-year extension of validity of International Passport for Ukrainians. Holder of an international passport can secure the extension from the office of the State Border Guard Service or Ukrainian diplomatic\consular office abroad.

This Decree also presents new rules for inserting information about minor children in the international passport. This can be done in any office of the State Border Guard Service or diplomatic\consular office abroad. For this purpose, a parent or legal guardian of a child must provide the following documents:

- Parent`s/Legal Guardian`s International passport;
- A standard form [application](#) (Annex 1);
- Birth certificate or other corresponding document issued by a competent authority of a foreign state (If there is no birth certificate – a receipt from the Unified Registry of Civil Acts);
- Two copies of photos of the child (3.5cm x 4.5cm);
- Authorization document of the legal representative of the child.

13. Cabinet Creates Scope for Receiving Pensions or Social Payments Without Opening Account at a Commercial Bank

On 26 February 2022 the Cabinet adopted [Resolution № 162](#) establishing a procedure whereby pensions and social benefits can be received in cash through the State bank ‘Oschadbank’ and State post office ‘Ukrposhta’. The procedure is applicable in the following cases: a) If banks other than State banks decided not to transfer money to certain locations; b) If a person changed his\her place of residence.

A person who has changed his/her place of residence can receive his/her pension or social benefit through Oschadbank (A state bank), or simply through Ukrposhta. Such person has to apply to the local Pension Fund and/or the social protection authority in person, or by phone or through the electronic cabinet and inform about the change of place of residence. After this, the person has to provide his\her passport and individual tax number to the Oschadbank office or Ukrposhta office.

14. Cabinet Prohibits Levying Penalty or Fine for Non-Payments of Utility Charges

On 5 March 2022 the Cabinet issued [Decree № 206](#) prohibiting accrual and collection of penalties or fines on individuals for non- payments of housing and communal utility services. Moreover, it has also prohibited cancellation of utility services due to non-payment.

15. President Signed Law on Enhancing Criminal Liability for Treason and Sabotage During Martial Law

On 4 March 2022 the President signed [Law № 2113-IX](#) amending Criminal Code to increase the severity of criminal liability for treason and sabotage during martial law.

Before	After
Amnesty can be applied to persons convicted of treason and\or sabotage	Amnesty cannot be applied to persons convicted of treason and\or sabotage
Treason is punishable by imprisonment for a term of 12 to 15 years with or without confiscation of property	Treason is punishable for a term of 15 years and up to life imprisonment with confiscation of property
Sabotage is punishable by imprisonment for a term of 10 to 15 years with or without confiscation of property	Sabotage committed during martial law or armed conflict is punishable by imprisonment for a term of 15 years or life imprisonment with confiscation of property

16. The Council of the European Union Invokes Temporary Protection Directive

On 4 March 2022, the Council of Ministers of the European Union (EU) invoked Temporary Protection Directive 2001/55/EC of 20 July 2001 and declared a temporary protection regime for persons fleeing Ukraine to safety in EU countries. For more details, please use this [link](#)¹. Temporary protection will apply to the following persons:

- Ukrainian nationals residing in Ukraine before 24 February 2022;
- Stateless persons residing in Ukraine before 24 February 2022
- Nationals of third countries if they were legal permanent resident of Ukraine and not being able to travel back to their country of origin under safe and durable conditions
- Family members (*i.e.*, spouse, stable partner, minor unmarried children or other close relatives, who are dependent on the main person) of the persons mentioned above.

¹ https://ec.europa.eu/info/strategy/priorities-2019-2024/stronger-europe-world/eu-solidarity-ukraine/eu-assistance-ukraine/information-people-fleeing-war-ukraine_en#onward-travel-in-the-eu

The following are the salient features of the temporary protection mechanism:

- Temporary protection is provided for one year. If the conditions persist, it will be automatically renewed for two 6 months slots until 4 March 2024. The Council can decide to extend it for another year till 4 March 2025.
- Temporary protection will be awarded on the basis of application.
- A person may travel to any EU country and seek temporary protection there. However, a person may enjoy his/her rights only in the country that issued the residence permit)
- A person will have the right to employment, right to accommodation and housing, right to social welfare and medical care, and right to education in the case for minors.

Each EU member state will have its own national legislation or scheme to implement the EU Directive. As such, the nature of temporary protection granted may differ from country to country. In general, member States may adopt measures giving higher guarantees for persons eligible for temporary protection. However, they are not allowed to restrict it.

As of 11 March, the following countries have either implemented temporary protection or in the process of implementation: Belgium, Croatia, Denmark (In process pursuant to a special law for refugee from Ukraine), Estonia, Finland, France (In process), Germany², Greece³, Hungary⁴, Iceland (In the form of collective protection), Ireland⁵, Italy, Lithuania, Luxembourg⁶, Portugal, Poland (Through national Act on Assistance to Citizens of Ukraine), Slovakia, Spain, Sweden, Switzerland⁷. For more information please click [here](#).

Persons who apply for temporary protection may still apply for international protection (*i.e.*, asylum – refugee status or subsidiary protection) at any time. Applying for asylum (refugee status) entails many implications including restrictions on movement within EU member states. Persons interested in asylum should take further legal advice. The table below provides a generic comparison of temporary protection versus refugee protection and subsidiary protection.

Type of Protection	Refugee Status	Subsidiary Protection	Temporary Protection
Who can get the status	<ul style="list-style-type: none"> • Persons who are not EU citizens and cannot return to their country of origin due to well-founded fear of persecution 	Non-EU or stateless persons who, if returned to their country, could suffer serious harm in the form of: <ul style="list-style-type: none"> • Death penalty; 	Non-EU or stateless persons who: <ul style="list-style-type: none"> • Flee from countries of residence due to armed conflict or widespread violence;

² <https://www.bmi.bund.de/SharedDocs/faqs/EN/topics/ministry/ukraine-war-eng/faq-ukraine-artikel.html>

³ <https://www.mfa.gr/missionsabroad/en/netherlands-en/news/greece-welcomes-displaced-ukrainians.html>

⁴ https://helsinki.hu/en/wp-content/uploads/sites/2/2022/02/HHC_Ukraine_Guide_2022_03_09_EN.pdf

⁵ <https://www.irishrefugeecouncil.ie/ukraine-information-note>

⁶ <https://www.schengenvisainfo.com/news/what-asylum-procedures-should-ukrainian-refugees-follow-to-remain-in-luxembourg/>

⁷ <https://www.admin.ch/gov/fr/accueil/documentation/communiqués/communiqués-conseil-federal.msg-id-87448.html>

	<ul style="list-style-type: none"> • Stateless persons who are unable to return to their country of residence due to well-founded fear of persecution or due to risk of serious harm 	<ul style="list-style-type: none"> • Torture or conduct that degrades a person's honor and dignity; • Serious threat to life or health as a result of violence against civilians in armed conflict. 	<ul style="list-style-type: none"> • Have a serious risk of becoming or have been the victim of systematic and widespread human rights violations.
What type of permit does a person receive	A person who has been granted refugee status is issued a residence permit and documents allowing him / her to travel freely within the EU (Geneva or Blue Passport)	A person who is granted subsidiary protection is granted a renewable residence permit and assistance in obtaining documents that will allow such a person to travel outside the territory of his/her stay.	Residence permit in the country providing such protection
For how long	At least three years with the possibility of extension for a period until which the person can return to the country of origin	At least for one year with the possibility of renewal for at least two more years	The residence permit is issued for one year with the possibility of extending two additional slots of six months

Loss of Status and Protection in Case of Travel Back to the Country of Origin: As a general rule, traveling back to the country of origin may lead to loss of refugee status or subsidiary protection as the traveling would imply that the person no longer requires international protection. It is not yet clear whether the same rule applies for temporary protection as well. Persons in urgent need of traveling to the country of origin should consult lawyer or authorities to enquire about potential consequences of such travel or exemption from the general rule that may be available in exceptional circumstances.

Some of the terminology used in this issue of the Legal Alert was taken from draft laws or current legislation and does not necessarily reflect the position of DRC.

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