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## DRC Legal Alert: Issue 95 | 1 June – 30 June 2023

### 1. The Cabinet Has Adopted Long-Awaited Procedure for Compensating Destroyed Housing

**Background:** On 23 February 2023, the Parliament adopted [Law No2923-IX](#), introducing a mechanism of compensation for damaged and destroyed housing<sup>1</sup>. The Law required subsidiary procedural frameworks to be adopted. It is notable that the government decided to introduce separate procedures for compensating damaged and destroyed housing. The Procedure on compensation for damaged housing was adopted in April 2023<sup>2</sup> but didn't include issues of compensation for destroyed objects.

**Recent developments:** On 30 May 2023 the Cabinet approved [Decree No600](#) introducing Procedure for compensating destroyed housing.

<p><b>Eligible persons</b></p>	<p>Ukrainian citizens and legal entities (house owners' associations, housing cooperatives, persons authorised by co-owners of apartment buildings) whose housing was:</p> <ul style="list-style-type: none"> <li>destroyed after 24 February 2022 and</li> <li>located in GCA as of 24 February 2022</li> </ul>
<p><b>Application submission period</b></p>	<p>From 15 July 2023 throughout the period of Martial Law and 1 year after its termination or suspension.</p>
<p><b>How to apply</b></p>	<ul style="list-style-type: none"> <li>in electronic form - via DIIA application</li> <li>in paper form - through an administrative service centre, social security authority or notary.</li> </ul> <p>Applications for compensation submitted by citizens of Ukraine to the State Register of Damaged and Destroyed Property<sup>3</sup> prior to the entry into force of the <a href="#">Law No2923-IX</a> are considered as valid.</p>
<p><b>Restrictions</b></p>	<p>Compensation will be transferred to the applicant's bank account with a special regime for the use of the fund. Funds can be used for:</p> <ul style="list-style-type: none"> <li>construction of housing or</li> </ul>

<sup>1</sup> For more information, please, see [DRC Legal Alert Issue 91](#)

<sup>2</sup> For more information, please, see [DRC Legal Alert Issue 93](#)

<sup>3</sup> For more information, please, see [DRC Legal Alert Issue 78](#)

	<ul style="list-style-type: none"><li>• purchase of housing</li></ul>
<b>Amount of compensation</b>	<p>The amount of compensation for the destroyed housing is calculated by local Commissions according to the formula, that considers:</p> <ul style="list-style-type: none"><li>• size of the destroyed property</li><li>• number of rooms</li><li>• year of construction</li><li>• region of location.</li></ul> <p>The amount of compensation is set at the level not lower than the cost of construction of housing of the corresponding area.</p> <p>The compensation can also cover the costs of acquiring the land plot provided that maximum limit for compensation is not exceeded.</p>
<b>Terms for use of funds</b>	<p>The funds shall be used within 36 months after the date of receipt.</p> <p>Non-used funds shall be returned after the expiration of the stipulated period.</p>
<b>Priority right</b>	<p>A queue will be formed automatically, taking into account the priority right to receive compensation by:</p> <ul style="list-style-type: none"><li>• families with 3 or more children</li><li>• persons with disability of I/II group or with disability as a consequence of war</li><li>• participants of military actions</li><li>• persons mobilized after 24 February 2022</li><li>• families of fallen (deceased) war veterans.</li></ul>
<b>Assignment of the “right” to claim compensation from Russian Federation</b>	<p>Applicant shall assignment to the State/hromada his/her “right” to claim compensation from the Russian Federation</p>
<b>Right to ownership</b>	<p>Ownership of the destroyed housing is terminated due to its destruction. In order to receive compensation, the applicant must take steps to register the termination of such right accordingly.</p>

## **2. The Cabinet Introduces Multiple Actions to Address the Consequences of the Kakhovka Dam Destruction**

**Background:** The Kakhovka dam's destruction on 6 June 2023, as a consequence of war, has led to the flooding of downstream settlements, prompting an urgent need for evacuation and humanitarian assistance<sup>4</sup>. As of 22 June 2023, nearly 4,000 people were evacuated in Khersonska and Mykolaivska oblasts and thousands of people have reportedly been evacuated from the non-government-controlled areas. Approximately 700 000 people potentially affected are still residing without proper access to drinking water on both GCA and NGCA. Nearly 600,000 hectares of agricultural land will remain without irrigation<sup>5</sup>.

**Recent developments:** The Cabinet adopted several frameworks in order to address the consequences of destruction of the Kakhovka dam. The most notable measure is the decision that the damage caused by the flooding will fall within the ambit of the compensation law ([Law №2923-IX](#)<sup>6</sup>).

On 13 June 2023 the Cabinet adopted an [Action Plan](#) of measures, to be taken by the local governments. The Plan, among other matters, includes:

- Organisation of the inspection of buildings and structures damaged as a result of the flooding
- Registration of the results of such inspection to the relevant Register, and
- Calculation the appropriate amount of compensation for the restoration of damaged and destroyed housing

On 16 June 2023 the Cabinet approved [Decree №609](#) introducing Procedure for liquidation of consequences caused by the destruction of the Kakhovka hydroelectric power station dam in the Kherson region. The Procedure includes:

- inspection of the objects
- development of project documentation
- new construction, reconstruction, major repairs, acquisition of housing
- compensation for destroyed and damaged objects:
  - for damaged housing compensation is provided under [Decree №381](#) via “eVidnovlennia”<sup>7</sup>
  - for destroyed property compensation is provided under [Decree №600](#).

On 19 June 2023 the Cabinet signed [Decree №626](#) elaborating Procedure for granting one-time financial aid to the affected persons.

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<sup>4</sup> For more information, please, see [UNCT Joint Analytical Note](#) of 9 June 2023

<sup>5</sup> For more information, please, see [OCHA Ukraine humanitarian response, flash update #8](#)

<sup>6</sup> For more information, please, see [DRC Legal Alert Issue 91](#)

<sup>7</sup> For more information, please, see [DRC Legal Alert Issue 93](#)

<b>Eligible persons</b>	<ul style="list-style-type: none"> <li>Persons who, as of 5 June 2023, resided in settlements located in the flooded areas of Mykolaiv and Kherson oblasts<sup>8</sup> and were not registered as recipients of accommodation assistance earmarked for IDPs.</li> <li>Persons who moved after 6 June 2023 from the non-government-controlled areas (NGCA) of Mykolaiv and Kherson regions that are included in the list of settlements located in the respective flooded areas.</li> </ul>
<b>Amount of financial aid</b>	5,000 UAH per affected person
<b>Terms</b>	Person may apply for one-time aid till 31 August 2023 (inclusive).
<b>Required documents</b>	<ul style="list-style-type: none"> <li>Identity document or eDocument</li> <li>number of the taxpayer's registration card</li> <li>a child's birth certificate or e-birth certificate.</li> </ul> <p>If the documents are lost, person may present its copies (scanned copies/photocopies), or information from the Unified State Demographic Register and other state information resources.</p>
<b>Tax relief</b>	<p>The amount of financial aid shall not be included in the calculation of:</p> <ul style="list-style-type: none"> <li>total family income for all types of State aid</li> <li>total monthly (annual) taxable income.</li> </ul>

### **3. The Cabinet Makes Critical Changes to Adoption Procedure to Address Challenges Faced During Martial Law**

**Background:** As at the beginning of the war, there were 37 baby homes in Ukraine with 2,723 beds, of which 2,523 were specialized and 200 were of a general type, in which 2,294 children were staying full-time.

After 24 of February 2022, due to the threat to the lives and health of children because of the war, 970 (42.3% of the total number) children were relocated (evacuated) to safer areas of Ukraine and abroad<sup>9</sup>. The mechanism for adoption of Ukrainian children evacuated abroad remained unclear.

**Recent developments:** On 1 June 2023 the Cabinet adopted [Decree №576](#) introducing the following changes:

- Online meeting with child:** Acquaintance of applicant for adoption with the child is now permitted to be carried out online via video conference.

<sup>8</sup> The list of settlements located in the flooded areas of Mykolaiv and Kherson oblasts and the list of streets and addresses (if possible) that were flooded, shall be approved by the Mykolaiv and Kherson regional military administrations correspondingly.

<sup>9</sup> Data are provided according to [UNICEF Analytical Report №3, 2022](#).

- **Adoption allowed within GCA:** Adoption or placement of children in foster families, family-type children's homes that reside in the areas of active hostilities and NGCA is prohibited.
- **Adoptions of children evacuated abroad:** Adoption and placement of orphans and children deprived of parental care who are abroad is permitted only for families and family-type children's homes currently residing in Ukraine. It also provides for the placement of such children under guardianship.
- **Possibility to renew documents of adoption applicants:** Adoption applicants who are temporarily displaced (evacuated) outside Ukraine or for other reasons cannot renew the expired documents<sup>10</sup> will have 3 months after the termination or cancellation of Martial Law, to renew the documents and formalize the adoption in accordance with the legislation of Ukraine.
- **Adoption by foreigners:** Generally, it is prohibited for foreigners and Ukrainians abroad to adopt children during Martial Law and within 3 months after its termination or suspension. Exceptions are made for the following categories of the adoption applicants:
  - relatives of the child
  - applicants seeking adoption of a child who is a sibling of a child previously adopted by them
  - one of the spouses has expressed a desire to adopt the child of the other spouse.

#### **4. The Cabinet Elaborates Procedure of Evacuation and Return of Children Placed in Residential Institutions**

**Background:** As of 24 February 2022, 37 baby homes provided care to orphans and children deprived of parental care, were functioning in Ukraine. As of December 2022, due to constant shelling, children from 22 baby homes were evacuated to safer places in Ukraine or abroad including:

- 492 children relocated within Ukraine from 11 baby homes
- 549 children relocated abroad from 13 baby homes (children from two baby homes were initially relocated within Ukraine before relocated abroad; so, they are counted twice)
- 15 baby homes continue to function at the place of their permanent location<sup>11</sup>.

**Recent developments:** On 1 June 2023 the Cabinet elaborated [Decree №546](#) establishing Procedure for evacuation and return of children placed in residential institutions, including:

- orphanages
- special educational institutions
- shelters for children
- boarding schools.

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<sup>10</sup> I.e. salary certificate, medical certificate for each applicant, certificate of criminal record and title documents for housing.

<sup>11</sup> Data are provided according to [UNICEF Analytical Report №3, 2022](#).

According to the recent amendments, during Martial Law, mandatory relocation (evacuation) will be carried out when institutions are located:

- less than 2 kilometres from entities that are important for the national economy and defence
- less than 100 kilometres from the NGCA
- less than 50 kilometres from the state border of Ukraine with the Russian Federation and the Republic of Belarus.

However, the abovementioned institutions may carry out activities related to the provision of educational, social, medical, rehabilitation and other services, if:

- equipped with necessary civil defence system
- there are premises, suitable for sheltering
- there is no enrolment of children for overnight stay.

### **5. The Cabinet Extends Geographic Scope for Granting Status of Conflict-Affected Child**

**Background:** The Cabinet [Decree №268](#) of 5 April 2017 created the scope for granting the status of a conflict affected child. The Status entails eligibility for certain protection services and social benefit. However, eligibility of children for the Status was limited within NGCA of Donetsk and Luhansk oblasts exclusively.

**Recent developments:** On 1 June 2023 the Cabinet adopted [Decree №547](#) expanded the geographic scope of the scheme from two Oblasts to the entire territory of Ukraine.

<b>Eligible persons</b>	A child, or person who at the time of hostilities: <ul style="list-style-type: none"><li>• has not reached the age of 18</li><li>• resided or stayed in the territory where hostilities are (were) conducted or NGCA</li><li>• and as a result:<ul style="list-style-type: none"><li>○ was injured, contused, or mutilated</li><li>○ was subjected to physical or sexual violence</li><li>○ has been abducted or illegally transferred outside Ukraine</li><li>○ was involved in the activities of paramilitary or armed groups</li><li>○ was illegally detained, including in captivity</li><li>○ was subjected to psychological violence.</li></ul></li></ul>
<b>Necessary documents</b>	Application shall be accompanied with the following documents: <ul style="list-style-type: none"><li>• the child's birth certificate and document proving the child's identity (ID, passport, e-passport etc., if any)</li></ul>

	<ul style="list-style-type: none"><li>• an identity document of the representative and a document confirming the powers of the child's representative</li><li>• certificate of registration of the child as IDP (if any)</li><li>• extract from the hromada`s register (if any).</li></ul> <p><b>NB!</b> A child who has reached the age of 14 has the right to apply and submit documents personally.</p>
<b>Where to apply</b>	Children`s Social Service at the place of residence/stay of the child.
<b>Terms</b>	The decision to grant or deny the status shall be made within 30 calendar days from the date of registration of the relevant application.
<b>Right to appeal</b>	The decision can be appealed through the court procedure.

### **Other Developments**

**1. The Cabinet Authorises Provision of Free Legal Aid during Curfew ([Decree №630](#) of 24 June 2023)**

Attorneys, appointed by a regional centre for the provision of free secondary legal aid, may stay outside to perform their duties during curfew if accompanied with:

- a certificate of the right to practice law or a certificate of a lawyer of Ukraine and
- a scanned copy of the order, issued by regional centre for the provision of free secondary legal aid to perform job duties.

**2. The Cabinet Allows Subventions to Develop Assistance Services for Victims of Domestic Violence ([Decree №559](#) of 2 June 2023)**

**3. The Cabinet Facilitates Renovation of Passports Abroad ([Decree №575](#) of 6 June 2023)**

Amendments allowed to State Migration Service and Consular service abroad to receive extracts directly from the State Register of Civil Status Acts. This significantly facilitates procedure for issuing passports, including for persons temporarily residing abroad.

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