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## DRC Ukraine Legal Alert: Issue 84 | 1 August – 31 August

### 1. Cabinet Clarifies Entitlement to IDP Subsistence Aid Commonly Known as IDP Housing Assistance

On 19 August 2022, the Cabinet adopted [Decree №923](#) amending the [Rules on Subsistence Aid for IDPs](#). The Decree makes the following important clarifications:

- IDPs who were receiving housing assistance as of 1 March 2022 will automatically continue to receive the subsistence aid without the need for a new application
- Effective from August 2022, the following categories of conflict-affected persons will also be entitled to IDP Subsistence Aid:
  - Persons displaced again from the temporarily occupied territories
  - Displaced persons whose housing is destroyed or rendered inhabitable provided that he/she filed a compensation claim by 20 May 2022.

Some other significant provisions of the Decree include:

- Subsistence Aid will be assigned in 10 days after the social protection authority receives the application
- If the IDP changed his/her place of registration and did not get the Subsistence Aid he/she was entitled to, the Subsistence Aid will be assigned according to his/her actual place of registration
- If the IDP did not get the Subsistence Aid to which he/she was entitled to and submitted an application before 30 April 2022, such IDP may get the aid for that period
- IDP may also submit the application again in person or by post to the social protection authority before 1 October 2022. In order to get the Subsistence Aid, IDP must additionally provide information proving the fact that he/she submitted the application before 30 April 2022 through Diia.

### 2. Parliament Introduces Rules for Establishing the Fact of Birth and Death in NGCA During Martial Law

**Background:** On 19 February 2016, [Law №990-VIII](#) introduced a simplified procedure for establishing the fact of birth and death in NGCA. The law provided that:

- A petition for the establishment of the fact of a person's birth/death could be filed in any local Ukrainian court by parents, relatives, their representatives or other legal representatives of a child/relatives or the representatives of a deceased person
- Such cases shall be addressed by the courts immediately on receipt of the petition.

On 1 July 2022 the Parliament adopted [Law №2345-IX](#) (came in force on 7 August 2022) amending the Civil Procedural Code again. The Law introduces the following amendments:

- The simplified procedure for establishing the facts of a person's birth or death is now applicable not only for NGCA residents but also for the residents of the territories where a state of war/emergency is in force
- The list of persons who may file the petition is expanded (for birth - a guardian, a custodian, a person who maintains and raises a child; for death – other persons if such death affects their rights, obligations or legal interests)
- Fees for such petitions are waived.

### **3. Parliament Extends Benefits Deriving from the Law on IDPs to IDPs from All Conflict-Affected Areas**

**Background:** Despite that the new IDPs from 2022 are entitled to IDP registration, they are not privy to all rights and privileges established by the 2014 [Law on Rights and Freedoms of IDPs](#). For example, while the old IDPs enjoy immunity from fines and penalties for breach of credit and loan agreements, the new IDPs do not enjoy the immunity due to legal technicalities.

**Development:** On 18 July 2022, the Parliament adopted [Law №2417-IX](#) which came in force on 3 August 2022. The Law made all rights and privileges under the 2014 IDP law applicable to all displaced persons. Prior to these amendments, the [Law on Rights and Freedoms of IDPs](#) was applicable only to IDPs from a) the Autonomous Republic of Crimea and the city of Sevastopol; b) non-government-controlled areas (NGCA) in Donetsk and Luhansk oblasts. From now on, IDPs are defined as persons displaced from any NGCAs.

### **4. Cabinet Presents New Mortgage Credit Program for IDP housing**

On 2 August 2022, the Cabinet adopted [Decree №856](#) introducing a new affordable mortgage program to be managed by the Ukrainian Housing Finance Company for certain groups of citizens including IDPs. The following are some major conditions for IDP's eligibility under the program:

- Be a Ukrainian citizen of 18-70 years old
- The IDP applicant along with his/her family members must be financial solvent to pay the installments
- The applicant either does not own a housing or owns housing smaller than a certain size (52.5m<sup>2</sup> + 21m<sup>2</sup> for each additional member). Ownership of any housing situated in NGCA will not be taken into account

- The applicant or member of his/her family is not currently enrolled in any other State affordable housing program
- The candidate or his/her family member is not in the sanction list.

Other eligibility criteria include as the following:

- Housing must be located in GCA in Ukraine
- Amount financed by the program shall not exceed the assessed value of the property undertaken by accredited assessment entities
- If the housing is located in Oblast center, it should not be older than 10 years
- Housing stock created under the IDP temporary accommodation program and housing stock cannot be financed under the program
- State and communal owned apartments cannot be financed under the program.

Interest rate for the mortgage is fixed at 7% per year with a 240-month installment schedule and a 20% down payment from the applicant. Application for the program can be made digitally through the Diia portal.

#### **5. Cabinet Expands the Scope of the State Register for Damaged and Destroyed Properties**

**Background:** The State Register for Damaged and Destroyed Properties was established in March 2022 with the mandate to collect, accumulate, account, store and process information on property damages and destructions caused following the February 2022 escalation of hostilities. Technically, the Register lacked the mandate to perform similar functions for property damaged and destroyed following the 2014 conflict.

**Recent Development:** On 9 August 2022, the Cabinet adopted [Decree №885](#) amending the [Rules](#) of the scope of the Registry. Following the amendment, the scope of work of the Registry will include registration and notification of damage and destruction of properties resulting from both the 2014 and 2022 hostilities.

#### **6. Parliament Allows Court to Provide Certain Services Through Diia**

On 27 July 2022, the Parliament adopted [Law №2461-IX](#) expanding digital footprint of the judicial services. The following services are now permitted through Diia:

- Informing about the court's cognizance of a case; parties and subject matter of the dispute; and date, time, and place of the hearing
- Digital publication of court's decision.

The services above can be provided both through Diia web portal and Diia mobile App.

## **7. Cabinet Approves Strategy and Operation Plan for Eliminating Inequalities between Displaced Men and Women**

**Background:** Ukraine, a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), files a periodical report on the status of the implementation of the Convention every four years. Among other gender inequalities in the society, the following inequalities pertaining to displaced women:

- Higher displacement rate for women (59%) compared to men
- Among the unemployed IDPs, 63% are women
- 27.5% of IDP women are forced to cut spending on food, compared to 20.7% of men

**Recent Development:** On 12 August 2022, the Cabinet adopted [Decree №752-p](#) introducing a State Strategy for 2022-2030 and a corresponding Action Plan for 2022-2024 to ensure equal rights of men and women. The Action Plan listed 47 tasks, outlined indicator value for each task and assigned implementation role to specific government agencies. The following table quotes some of the tasks to address displacement induced inequalities.

<b>Aim</b>	<b>Methods</b>	<b>Expected Result</b>
<b>Equal rights for men and women in the decision-making process</b>	Consultations with civil society organizations comprised of IDP-men and IDP-women when developing State Policy and monitoring of implementation of international and national obligations	<ul style="list-style-type: none"> <li>• Participation of IDP-women in the formation/implementation of State Policy</li> <li>• Monitoring of implementation of national and international obligations on ensuring gender equality</li> <li>• Central and local government to take into account proposals of IDP civil society organizations in the preparation of legal acts, strategic and program documents</li> </ul>
<b>Equal access to justice and peacebuilding</b>	<ul style="list-style-type: none"> <li>• Improvement of legislation on post-conflict restoration, peacebuilding, transitional justice and reintegration of IDPs</li> <li>• Expansion of opportunities for women to participate in conflict-related issues,</li> </ul>	<ul style="list-style-type: none"> <li>• Equal participation of men and women in post-war restoration process, peacebuilding and defense activities</li> <li>• Full access to justice for IDP-women</li> <li>• Equal inclusion of interests and needs of women and girls, men and boys</li> </ul>

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peacebuilding, post-war restoration as well as defense activities
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## **8. Cabinet Allows Transfer of Personal Data to a List of Foreign States to Augment Use of Diia App Abroad**

On 16 August 2022, the Cabinet adopted [Decree №910](#) allowing transfer of personal data from the Unified State Portal for Electronic Services. Sharing of such personal data is meant to facilitate Ukrainian's access to public services in foreign countries.

It is pertinent to mention that Ukrainians living under temporary protection in Europe are prone to use their digital documentations while interacting with public authorities in the hosting countries. Those authorities are often unable to acknowledge the digital documents for lack of data to cross-check authenticity. Access to personal data from the Ukrainian Unified State Portal is expected to facilitate access of Ukrainians to public services abroad. The Decree provides a list of countries with to which data can be transferred. The list of countries, which is based on the adequacy of data protection regime, can be accessed [here](#).

## **9. Cabinet Obliges TSNAPs to Provide Subsistence Aid for IDPs and Compensation for Persons with Disability as Caused by Explosive Objects**

On 19 August 2022, the Cabinet adopted [Decree №729-p](#) expanding the [list](#) of services to be provided by Centers of Administrative Services (TSNAPs). From now on, people may get the following additional services through TSNAPs:

- Provision of subsistence aid to IDPs
- Provision of one-time financial aid to individuals, including minors suffering disabilities from explosive objects
- Provision of annual rehabilitation assistance to individuals, including minors suffering disabilities from explosive objects.

## **10. Cabinet Defines Regions and Bodies Responsible for Ensuring the Obligatory Evacuation from Donetsk Oblast'**

**Background:** On 29 July 2022, the Cabinet adopted [Decree №854](#) establishing a Coordination Hub for the preparation of mandatory evacuation of persons from Donetsk oblast' during Martial Law. The aims of the Hub are as follows:

- Promote coordination among local and central State bodies on evacuation and resolution of problematic issues connected with it
- Monitor the evacuation and cooperation between state bodies
- Participate in the development of necessary legislation.

On 2 August 2022, the Cabinet adopted [Decree №679-p](#) ordering state authorities to conduct obligatory evacuation from Donetsk oblast and defining the regions to which the evacuation will take place. The regions are Vinnitsya, Volyn, Zhytomyr, Zakarpattia, Ivano-Frankivsk, Kirovohrad, Lviv, Poltava, Rivne, Ternopil, Khmelnytskyi, Cherkassy and Chernivtsi oblasts.

### **11. President Establishes Coordination Council for Analysis and Resolution of Protection and Safety Issues of Children Affected by the Conflict**

On 8 August 2022, the President established a [Coordination Council for the Protection and Safety of Children](#). The Council's primary responsibilities during Martial Law are:

- System analysis, establishment of directions and priorities for the protection of children's rights and safety
- Development of anti-crime measures
- Preventing the forced expatriation of children from Ukraine
- Drafting of rules and regulations to ensure proper investigation of crimes against children and their forced removal from Ukraine.

The Coordination Council is led by the Head of the Office of the President and includes the head of the Department of Juvenile Prevention and the Deputy Minister for Reintegration of Temporarily Occupied Territories.

### **12. Cabinet Introduces Amendments to the Rules on Adoption of Children During Martial Law**

On 16 August 2022, the Cabinet adopted [Decree №907](#) introducing the Rules on adoption of children during Martial Law. The developments are as following:

- Displaced minors eligible for adoption shall be registered at the place of their displacement
- Minors evacuated abroad can be adopted only after their return to Ukraine
- Adoption may take place only if adopters have all necessary documents. Adoption may not take place if adopters have expired documents
- Evacuated/displaced minors can be registered without health documents and photo
- The registry of evacuated/displaced citizens who want to adopt a minor is managed by the child protection service in the place of their displacement/evacuation
- Registration of prospective adopters who are citizens evacuated/displaced abroad can be done only after their return to Ukraine
- Citizens may be registered as prospective adopters without the need to pass the course on the upbringing of orphans/children left without parental care (if the decision not to conduct such a course was adopted at the local level at the place of their residence). They have to take the course after such courses are restored.

- Adoption cannot be done by Ukrainians permanently living abroad and foreigners during Martial Law except if the minor is a brother/sister to a minor formerly adopted by the same adoptive parents or if the adopter is a relative of the minor
- Adoption process started before the Martial Law can be proceed
- Adoptive parents subsequently evacuated/displaced abroad must inform the consular office of Ukraine about such evacuation/displacement.

### **13. Parliament Exempts from Conscription Persons Whose Close Relatives Died or Went Missing During Anti-Terrorist Operation or Martial Law**

On 29 July 2022, the Parliament adopted [Law №2491-IX](#) (came in force on 19 August 2022) amending the list of persons exempted from conscription. From now on, women and men whose close relatives (namely husband, wife, son, daughter, father, mother, grandfather, grandmother or brother/sister) died or went missing during Anti-Terrorist Operation in Donbas or during Martial law are exempted from conscription.

### **14. Parliament Simplifies Labor Legislation for Micro, Small and Medium Enterprises During Martial Law**

On 19 July 2022, the Parliament adopted [Law №2434-IX](#) which came in force on 19 August 2022. The law is aimed at introducing a simplified labor regime for micro, small and medium enterprises (MSME) during Martial Law. The following are the most significant novelties:

- Simplified regime may be applied only by mutual agreement between an employer and employee
- Labor contracts will be the main instrument for regulation of the relations between the employer and employee. Labor contracts that worsen the position of the employee in comparison to the labor legislation are void
- The employer and the employee will set their terms of labor contracts (the only obligation is to include essential terms of the contract such as place of work, timeframes of the contract, employee`s obligations, etc.)
- Labor contract may be produced in paper or digital forms
- Salary must be paid in accordance with the terms of the labor contract but not less than twice a month
- Termination of the contract by the employer on grounds that are not regulated by the Labor Code must be done along with payment of compensation to the employee
- Employers are not obliged to keep HR records if working under the simplified regime
- Annual vacations may be divided into parts of any duration (previously, there had to be at least one slot of 14 consecutive days).

The simplified regime applies to the following:

- a) SME with employees not exceeding on average 250 persons for a year
- b) An employee of an eligible SME whose monthly salary exceeds 8 minimum salaries (52 000 UAH in September 2022).

### **15. Parliament Harmonizes Certain Rules for Exchange of POWs**

On 28 July 2022, the Parliament adopted [Law №2472-IX](#) (came in force on 19 August 2022) harmonizing some rules for the process of POWs exchange. The Law amended the Criminal and Criminal Procedural Codes of Ukraine. The amendments provide for the following novelties:

- If the authorized POW body decided to exchange person as a POW, such a person will be released from criminal sentence
- If the exchange fails, such person will continue to serve the sentence
- Such release will be done on the basis of the court`s decision rendered upon the request of the prosecutor. The court must consider the request on the same day when it gets it from the prosecutor`s office.
- The person must be handled to the authorized POW body right after the decision on release comes in force.

### **Other Developments**

1. **The Martial Law and Mobilization are Prolongated Starting From 23 August 2022 for Another 90 Days** ([Law №2500-XX](#) and [Law №2501-IX](#) of 15 August 2022).
2. **Cabinet Reimburses 31 621 845 UAH for Oblast and Kyiv City Military Administration to Cover Expenses for Temporary Accommodation of IDPs During June 2022** ([Decree №693-p](#) of 5 August 2022).
3. **Legal and Natural Persons, Obligated to Make Annual Financial Statement, are Exempted from Untimely Submission of Report During Marital Law Period** ([Law №2436-IX](#) of 19 July 2022).

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