



LEGAL ALERT

January 2017

1. DRC releases preliminary findings of Legal Assistance Needs Assessment in Buffer Zone

In January 2017 DRC has conducted a legal assistance needs assessment covering 199 households in 12 villages along the line of contact of the government controlled area (GCA). Following is a summary of the preliminary findings:

- Contrary to popular perception, missing civil documentation remains one of the major issues to be immediately addressed. 1% of respondents have missing passport, 5% have outdated photos in passports which rendered their passports legally invalid, and 4% have missing birth certificate. 24% have not updated their new place of residence.
- The legal right of the civilian victims of the armed conflict has remained as one of the most underemphasized area of legal assistance work. While one in every five households along the line of contact has a member who was injured in the war, 98% of them have not received any state aid or assistance with regard to the injury.
- 19% of those who used to receive pension or social benefit prior to the conflict are yet to restore their rights.
- 50% of those seeking health care services failed to get free services as prescribed by law.
- 10% of the residents host unrelated minors. 43% of these children have legal issues with medical assistance, 14% with schooling, and 7% with legal guardianship.
- 48% of the respondents reported to have electronic pass for crossing the contact line. 27% of those who don't have the pass indicated that they would like to obtain one.
- 12% of the respondents reported that they have not yet obtained their employment books.
- 12% of the respondents claimed to have inherited real estate or bank deposits since the beginning of the conflict. 83% of them have *not* fulfilled the documentation works to legally possess the inherited estate and bank deposits yet.
- At least 14% of the people owning residential property do not have title document to prove ownership.
- 86% of the respondents pay for utilities without any subsidies from the State.

Full Assessment Report is annexed to this issue of the Legal Alert.

2. Changes in the Temporary Order on Crossing the Contact Line: less control authorities

On 11 January 2017 State Security Service of Ukraine has adopted amendments into the Temporary Order on Control over Crossing the Contact Line in Donetsk and Luhansk Regions by Individuals, Vehicles and Goods (Temporary Order).

According to the amendments, the logic of the organization of work at checkpoints for control over movement of goods is being changed.

- The joint mobile teams of controlling authorities' officials that were operating in the areas between the first and the second are now disbanded. Instead of them there will be fiscal mobile teams controlling the areas between the checkpoints and permanent checkpoints (PC), to be comprised of fiscal controllers. Both will monitor the movement of the goods across and alongside the contact line.
- The number of PCs and their activity will be coordinated by the Anti-Terrorist Coordination Center. The fiscal officers can also be joined by the border guards at the PCs.

Therefore now only fiscals and state borderguards can control the movement of the goods to over and along the contact line. All other state authorities, earlier authorized to conduct control – such as State Security Service, Ministry of Defense, military prosecutors, military law enforcement, National Police, Ministry of Interior officials are no longer involved, which in our opinion is a step toward greater transparency of control procedures at the contact line.

Text of amended Temporary Order in Ukrainian may be found here: http://www.sbu.gov.ua/sbu/control/uk/publish/article;jsessionid=45F675C63996B70C7B63066032AD6423.app1?art_id=136472&cat_id=136462

3. The Government has adopted a Plan on Reintegration Activities for Donetsk and Luhansk Regions

On 11 January 2017 the Cabinet of Ministers has adopted a Plan on Reintegration activities for Donetsk and Luhansk Regions, which has already received very positive remarks both from the civil society and from the international community. The Plan lists the major vectors of activities, deadlines for their implementation and the responsible Governmental authorities to elaborate the activities per se.

The Plan was adopted in the form of Decree thus it is obligatory for Ministries to implement.

We propose to closely monitor the following milestones of the Plan:

- NGCA residents should receive major services in GCA villages near the contact line, including psychosocial, social assistance, legal aid, employment services and administrative services such as passportization. Deadline according to Plan: March 2017.
- Children from NGCA should receive unimpeded access to GCA education. This also includes developing educational programs for distance learning. Deadline: March 2017.
- International humanitarian organizations to receive access to NGCA to monitor the situation with tuberculosis, HIV/AIDS and other contagious diseases and provide treatment. This also applies for vaccination activities. Deadline: no exact date. Activities should be non-stop.

In our April Legal Alert we will analyze progress made.

Text of The Plan in Ukrainian may be found here: <http://www.kmu.gov.ua/control/uk/cardnpd?docid=249657353>

4. Following DRC advocacy efforts, the Ministry of Justice is initiating legislative changes concerning enforcement of court decisions in NGCA

Since April 2016 DRC has been constantly advocating for legislative changes which would allow enforcement of decision in NGCA. It has been our position that anyone receiving a final court decision should have an effective right of enforcing such decision either in GCA or else when the control over territory in question is regained.

In order to achieve that the facts that either the debtor or his property remain in NGCA should be grounds for freezing the statute of limitations' deadlines for enforcement proceedings.

After meeting on 11th July with the Deputy Minister of Justice Mr. Petukhov, where DRC team has presented its position and draft law, the Ministry of Justice has issued a preliminary statement that they agreed on the concept.

On 26 January we were presented with first draft of legislative changes incorporating the approach we have suggested: freezing enforcement deadlines till the Government of Ukraine regains control over territories and possibilities to renew the enforcement proceedings that were opened till the onset of the conflict but were since lost.

After further negotiations with the Ministry of Justice we will present the link to the draft legislation when it is submitted to the Parliament for consideration.

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