



LEGAL ALERT

December 2016

In this issue we will shed light on substantive legislative changes related to 2017 state budget, namely the impact of increased minimum wage and subsistence levels.

1. Approved State Budget 2017, draft law 5130 and their implications

Negotiations of the Law on State Budget are highly scrutinized as each year it sets forth basic economic features, including the minimum wage and the subsistence levels.

The minimum wage was base for calculation of all kinds of public spending: salaries/payments for state employees, public servants, pensions, as well as fines, taxes etc.

On 06 December 2016, the Parliament adopted draft law 5130 that changes calculations of certain budgetary payments through substitution of minimum wage with subsistence level.

Thus, the minimum wage since January is 3200 UAH, while the subsistence level for employable person is twice as low, being 1600 UAH.

Subsistence level will become base also for:

- Court fees
- Administrative fines
- Court bail in criminal cases
- Criminal qualification of certain crimes (not all)
- Benefit payments in case of death of a bread-winner
- Administrative services (such as state registration of a company etc.)

Changes stipulate that salaries for most public servants – including judges, policemen, other officials etc. - will be based on subsistence level, not the minimum wage. As a result, the lowest rank of public servants will receive salaries of 2000 UAH (1.25 of subsistence level), which is significantly lower than the “minimum wage”. This also concerns mine workers, as their salaries are set by the State.

All special pensions (for military, police, judges etc.) appointed before 2016 should now also be based on the subsistence level. This rule does not apply if re-calculation leads to decrease of pension.

The Law freezes pensions and social stipends indexation, so until 2018 maximum pensions will remain at the level of 01 January 2016 and cannot exceed 10,740 UAH.

In addition to indexation, pensions growth depended on official average salary in Ukraine. In 2017 such growth will depend on average salary set by the Cabinet of Ministers of Ukraine (CMU).

All pension payments to working public servants (working pensioners) will be frozen till 31 December 2017.

In 2017 general stipend for students whose average grade starts from 75 will be abolished. There will be only two types of student stipends: a) social - paid only to orphans and those who have lost parents during their study and b) academic - for honors students.

Concerns:

- The fact that the base for public servants' salaries will be lower than for private sector employees may amount to discrimination and enhance corruption risks
- The fact that private sector will have to pay higher salaries and taxes to employees may amount to discrimination and result in reduction of official employment rate
- Higher tax burdens for private entrepreneurs, who will have to pay social tax disregarding whether or not they have income (705 UAH monthly minimum)
- All pensioners will receive their pensions only through banks specifically determined by the CMU
- Threshold for receiving utilities subsidies increased twice as subsidies still depend on the minimum wage

Draft law and supporting documents in Ukrainian may be found here:

http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60033

2. Internally displaced have become subjects for free legal aid from the State

On 21 December the Parliament passed the Draft Law On Higher Council of Justice that changes the Law On Free Legal Aid. The draft law is not yet signed by the President.

According to amendments, IDPs are eligible to receive free legal aid (counselling and court representation) if their income does not exceed twice the size of subsistence level.

Text of draft law in Ukrainian may be found here:

http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60102

3. The General Assembly of the United Nations has upheld the Resolution "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)", initiated by Ukraine

On December 19 the United Nations General Assembly voted for a resolution on human rights in Crimea, titled "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)," supported by the UNGA Third Committee. 70 UN member states backed the document, 77 abstained and 26 voted against it.

The analysis of the text was presented in our previous Legal Alert.

4. Cabinet of Ministers introduced changes into its resolutions concerning social benefit payments and IDP registration

On 14 December 2016 the CMU adopted Resolution 964 which changed Resolutions 509/2014, 637/2014, 505/2014, 207/2016 and 365/2016. Most changes concern technical harmonization with the Law 921 (amendments into basic IDP Rights Law) which came into force 13th January 2016.

However, the following should be taken into account:

Amendment to Resolution 509/2014

From now on IDP is not required to re-issue IDP certificate if he/she changes place of residence within one administrative-territorial division (district within the city or village within

raion). However, as previously, IDP should re-issue IDP certificate if he/she moves out of one district/raion to another.

Amendment to Resolution 509/2014

Oshchad bank has to provide physical identification and pension delivery free of charge to those IDP pensioners who have 1st degree handicap or those who need constant third-party aid and cannot come to the bank.

Amendment to Resolution 207/2016

IDP certificate becomes the document containing stamp on temporary residence registration.

Amendment to Resolution 365/2016

Commissions who reinstate social payments to IDPs are obliged to check residence of students or persons in social institutions through requesting this information from universities and social care institutions instead of demanding it from IDPs.

The text of the amendments in Ukrainian may be found here:

<http://www.kmu.gov.ua/control/uk/cardnpd?docid=249601066>

5. CMU assigned new manager of the Unified Demographic Registry

CMU Decree 931 appointed State-owned enterprise "Document" as the manager of the Unified Demographic Registry. This might lead to risks, as all the demographic data will be managed not by a state authority which reduces the degree of confidentiality and responsibility in case of a system failure.

Text of the Decree may be found here:

<http://zakon2.rada.gov.ua/laws/show/931-2016-%D1%80>

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