



## LEGAL ALERT

November, 2017

### 1. Governmental Draft Law on Social Housing for Disabled IDPs is Submitted to the Parliament

On the 17<sup>th</sup> of November the Cabinet has submitted a Draft Law 'On Amendments to Law of Ukraine 'On Social Housing Stock'<sup>1</sup> to the Parliament. The Draft Law includes disabled IDPs and members of their families into the list of people who can apply for social housing on the following terms:

- the applicant does not own any housing in GCA, other than housing that was destroyed or became uninhabitable as a result of the 'ATO'
- average monthly household income per family member must be lower than the sum of the respective living wage and rental cost in respective area. Private belongings of the applicant and the family members, especially real estate, vehicles (including tractors), deposits in financial institutions and securities will be taken into consideration in determining applicant's eligibility – with the exceptions for property located in NGCA and contact line.

Eligible applicants with **category I and category II disability** are entitled to be listed in the **priority queue** for social housing. It is pertinent to mention that existing law provides 12 other groups of applicants, including war disabled, war veterans who are **not required to wait in queue at all** provided they fulfill both requirements on income level and lack of housing.

#### Limitations of the Draft Law:

- The reference to 'rental cost in respective area' may **mechanically exclude many applicants** until the local authorities revise their official rental rate calculations in line with fair market rate. Here are examples of official rates (rounded up) of monthly rental costs in some settlements: Kostyantynivka (Donetsk region) – 9 UAH<sup>2</sup>; Voznesensk (Mykolaiv region) – 10 UAH<sup>3</sup>; Novoukrainka (Kirovohrad region) – 15 UAH<sup>4</sup>; Kam'yanka (Dnipro region) – 348 UAH<sup>5</sup>; Kyiv – 600 UAH<sup>6</sup>.
- Eligible applicants **with damaged or destroyed properties** in GCA buffer zone may find it **difficult to prove the 'uninhabitability' requirement**. According to DRC legal needs assessment only 34% of people facing damage or destruction of properties have received some sort of damage/destruction certificates from their respective local authorities. Even if received, such evidences most often **do not connect the fact of distraction with "ATO" activities**.

<sup>1</sup> Draft Law 'On Amendments to Law of Ukraine 'On Social Housing Stock' dated 17 November 2017 (Ukr.) – [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=62916](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62916)

<sup>2</sup> Decision of Kostyantynivka City Council on Determination of Rental Cost Per Person in Kostyantynivka No 316 dated 18 October 2017 – <http://konstrada.gov.ua/component/documents/2304:2017316>

<sup>3</sup> Decision of Voznesensk City Council on Determination of Rental Cost Per Person in Voznesensk No 133 dated 27 June 2017 – <http://voz.gov.ua/doc/465>

<sup>4</sup> Decision of Novoukrainka City Council on Determination of Rental Cost Per Person in Novoukrainka No 58 dated 29 June 2016 – [http://www.nu-rada.gov.ua/index.php?option=com\\_content&view=article&id=2855:--58-----&catid=261:29062016&Itemid=111](http://www.nu-rada.gov.ua/index.php?option=com_content&view=article&id=2855:--58-----&catid=261:29062016&Itemid=111)

<sup>5</sup> Decision of Kam'yanka City Council on Determination of Rental Cost Per Person in Kam'yanka No 101 dated 26 April 2017 – [http://so.dndz.gov.ua/ua/treezas\\_so/pg/280417609797491\\_d2/](http://so.dndz.gov.ua/ua/treezas_so/pg/280417609797491_d2/)

<sup>6</sup> Decision of Kyiv City Council on Determination of Rental Cost Per Person in Kyiv No 1318 dated 25 October 2017 – <http://document.ua/pro-viznachennja-velichini-oposeredkovanoyi-vartosti-naimu-o-doc324108.html>

- Explanatory note on the Draft Law<sup>7</sup> states ‘realization of the law requires **no additional State budget funding**. This limits the scope for the much needed replenishment of social housing stock while respective funds are almost exhausted. The law will be of little use until new social housing units are created. Local authority budgets are usually too small to cater for this. Moreover, displacement being a national issue cannot be relegated as a local responsibility. Local authorities will also risk social cohesion if they are required to shift resources from their vulnerable members to accommodate IDPs.

## 2. The President has Announced 2018 a Year of ‘I Have a Right!’ Project Realization

The President has signed a Decree No 361/2017, announcing a Year of Realization of Project ‘I Have a Right!’<sup>8</sup>. Designed by the Ministry of Justice and Legal Aid Coordinating Centre, the Project is supported by USAID ‘New Justice’ Program and International Renaissance Foundation. It aims at raising of people’s awareness on realization and protection of their rights. Promotional campaigns will be based on TV-broadcasting, social advertising, and website of the Program – [pravo.minjust.gov.ua](http://pravo.minjust.gov.ua).

It will be interesting to see if the rights of IDP and conflict affected people will be covered by the program given that there is no specific reference to the conflict and IDP in the program.

## 3. The Parliament has adopted a Law Strengthening Guarantees of Children Safety

On the 7<sup>th</sup> of November, 2017, the Parliament has adopted a Law No 2180-VIII ‘On Amendment of Legislation Concerning Strengthening of Guarantees of Children Safety’<sup>9</sup>. **The law is generic in nature** and proclaims the following:

- Protection of childhood shall be considered as a national interest under a Law ‘On the Fundamentals of National Security’ and added to national interests priorities
- Creation of effective system for guaranteeing children’s rights to be included into the list of fundamental principles of domestic policy
- National patriotic education of children and youth is added to the grounds of state humanitarian policy

The concluding provisions of the Law prescribe the Cabinet **to significantly increase the living wage for children** in the proposed State budget for 2018. The Cabinet is also required to prepare a draft law on improvement of social security of families with children and providing of fair social guarantees for children. **It will be up to these documents to make it clear how real the enforcement of the guarantees shall be.**

*Some terminologies used in this issue of the Alert are taken from the draft laws or current legislation and do not necessarily reflect the position of DRC.*

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<sup>7</sup> Explanatory Note on the Draft Law ‘On Amendments to Law of Ukraine ‘On Social Housing Stock’ – <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=6pf3511=62916&pf35401=438806>

<sup>8</sup> Presidential Decree No 361/2017 dated 14 November, 2017 – <http://www.president.gov.ua/documents/3612017-22974>

<sup>9</sup> Law of Ukraine ‘On Amendment of Legislation Concerning Strengthening of Guarantees of Children Safety’ – <http://zakon0.rada.gov.ua/laws/show/2180-19>