

DRC-DDG LEGAL ALERT: Issue 48 January 2020

1. Parliament Adopts Law On Free Meals for IDP Children

On 16 January 2020, the Parliament adopted Law [No. 474-IX](#) coming in force on 20 May 2020 and entitling IDP children¹ to free meals. Free meals have already been available for orphans, children deprived of parental care, children from low-income families, and differently-abled children.

Scope of the assistance:

- parents of IDP children will be provided with free baby food until a child reaches 3 years of age;
- free meals will be made available for IDP children at schools, and vocational schools.

Free meals have to be funded by local authorities who also define the size of a budget per child for a free meal. In 2019, daily budget for free meals per pupil of 1-4 grades was as follows: [Cherkasy](#) – 10 UAH, [Berdyansk](#) – 10.2 UAH, [Kharkiv](#) – 14 UAH, [Zhytomyr](#) – 18.3 UAH, [Dnipro](#) – 19 UAH.

The law, despite its positive intent, may cause unintended negative consequences as it creates scope for inscribing an IDP label on a child and stigmatising his factual situation.

Related concerns:

- **Rooting the IDP identity:** The fact of being an IDP is not considered as a legal status, as restated by the Guiding Principles on Internal Displacement. Rather, the internal displacement of a person reflects a factual situation of an IDP, who is entitled to the same rights as other citizens.² Any effort to create a separate legal identity for an IDP is against the spirit of IDPs rights under international law. Apart from violating the inherent dignity of an IDP, rooting IDP identity has long term negative consequences on social cohesion and IDP integration. The issue is particularly sensitive for children whose upbringing is heavily influenced by perceptions and treatment of peers, particularly at school.
- **Contributing to IDP stigmatisation:** Global experiences show that differentiating social vulnerability solely on the basis of displacement conditions can create social isolation and stigmatisation. Social benefits to the disadvantaged IDPs should be distributed under the existing criteria of vulnerability. The new law targets IDP children without any objective criteria for assessing their vulnerability. It also reinforces a harmful narrative that IDPs per se are economically insolvent and burdensome to the community.
- **Relevance:** Existing law provides similar assistance to children from low-income families. As such, the relevance of the new law is questionable. A more acceptable approach could have been to make increased budgetary allocations to communities with a higher concentration of IDPs.

¹ Child is eligible to obtain IDP certificate and therefore be considered as an IDP if at least one of the parents is an IDP – even if the child was born already after the displacement.

² [‘Definition of an IDP in Policy-Making: Who are IDPs, and what are their specific needs?’](#), Global Protection Cluster, UNHCR, IDMC, NRC in partnership with ECHO.

2. Cabinet Provides Framework for ‘Preferential 5-7-9% Loans’ Programme for Micro and Small Enterprises

Background: Micro and small enterprises in Ukraine are in a need of state support in the wake of increased competition from large corporations and the ongoing regulatory reforms. Such enterprises are often found too small and weak to comply with regulatory requirements. Micro and small enterprises operating in the conflict-affected government-controlled areas (GCA) of Donetsk and Luhansk regions face additional hurdles due to infrastructural and market dysfunctions, as well as the absence of credit facilities.

Recent Developments: On 24 January 2020, the Cabinet issued Resolutions [No. 28](#) and [No. 29](#), which create a framework for new ‘Affordable 5-7-9% Loans’ programme for micro- and small businesses.

Terms of the Programme:

Interest rate	5% per year	7% per year	9% per year
Maximum size of the loan	1.5 million UAH ³		Maximum size of the loan
Maximum term of the loan	5 years		Maximum term of the loan
Annual sales	Up to 25 million UAH		From 25 to 50 million UAH
Enterprise’s own contribution	Minimum 30%		Minimum 20%
Extra terms	Creation of 2 new jobs during the 1 st quarter	0.5% interest rate reduction for each new job created (down to 5% minimum interest rate)	

Participation requirements:

- To be registered as an individual entrepreneur or as a legal entity;
- Members of the entity and loan recipients are residents of Ukraine;
- The average number of employees does not exceed 50 persons;
- Annual sales do not exceed 50 million UAH;
- A loan is provided for development purposes (obtaining new production means, renovation, etc.);
- Profitability for the last 4 quarters (for the existing entities) or availability of realistic and well-grounded business plan (for start-ups);
- Applicant’s credibility to be determined by the banks selected under the Programme.⁴

Exclusion grounds:

- An entity is a credential company, insurance company, investment fund, non-state pension fund, real estate rental company, or a pawnshop;
- Produces or sells alcohol, tobacco, weapons, or runs currency exchange;
- Are in bankruptcy;
- In the process of winding up;
- Has state/pension/insurance arrears;
- Currently receives another kind of State assistance.

³ At the same time, overall state support to the applicant for the last three years cannot exceed 200,000 EUR.

Programme design and expected results:

- The Programme launches on 1 February 2020 under the State Entrepreneurship Development Fund and is expected to last for 5 years;
- Expected results:
 - In the first year: over 50,000 loans provided; up to 90,000 jobs created; nearly 2 billion UAH of new investment generated from the enterprises participating in the Programme;
 - In 5 years: total amount of granted loans reaches 30 billion UAH.

3. President Signs a Law On Access to Documentation for Residents of ‘ATO’/JFO Areas

Background: According to the general rule, national identity documents and other civil documentation are issued by state services at the place of an individual’s registration.⁵ Because of the conflict and lack of access to functional state services, an exception is made for NGCA-residents and IDPs. NGCA-residents can apply at any of the State Migration Service offices within the region of their registration⁶ while IDPs can apply at the place of their IDP registration. Individuals residing within the areas of JFO⁷/‘Anti-Terrorist Operation’ (‘ATO’), despite living under sometimes non-functional civil documentation regime, are not provided with the same opportunity. These individuals are, therefore, compelled to approach the nearest state bodies located in the neighbouring areas for their civil documentation needs. Such requests are often denied by the state bodies on the ground of lack of territorial jurisdiction.

Recent developments: On 26 January 2020, the President signed Law [No. 371-IX](#) concerning the issuance of identifying documents for residents of ‘ATO’/JFO areas and ex-residents who have left the areas after the start of ‘ATO’.

Salient features:

- Current residents of ‘ATO’/JFO areas can apply for documentation at any of the regional State Migration Service offices in Luhansk/Donetsk regions;
- Ex-residents of ‘ATO’/JFO areas who have left the areas after the start of ‘ATO’/JFO can apply at a State Migration Service within their factual whereabouts.

4. Cabinet Terminates National Legal Awareness Raising Project ‘I Have a Right!’

Background: In September 2017, the Cabinet [launched](#) ‘I Have a Right!’ project aimed to raise awareness of people about their rights and their protection. The project has been administrated by the Ministry of Justice in cooperation with the free legal aid system under donors’ support. As of January 2020, 17 informational campaigns have been conducted under the project, including ‘Stop

⁴ Loans are to be provided through a bank selected by the applicant under the condition of meeting certain fair requirements.

⁵ At least, for the first application.

⁶ For example, an individual registered in Donetsk can apply for documentation at any office of State Migration Service within GCA part of Donetsk regions.

⁷ Joint Forces Operation – legal regimes succeeding ‘ATO’ in April 2018—was introduced to reinforce the legal background for the governmental military operations on the East of Ukraine and increase the role of the Armed Forces while reducing the weight on the State Security Service in the operation. For more information on the JFO, refer to the DRC-DDG [Legal Alert](#) Issue 25: April 2018, Section 2.

bullying’, ‘Stop the violence’, ‘Protection of rights in Crimea’, ‘I have a right to vote’, ‘Rights of defenders’, ‘Right to land’ and others. Initially introduced for 2 years, the project was extended in August 2019 for a further three years until 2022.

Recent developments: On 15 January 2020 the Cabinet issued Resolution [No. 28-p](#) terminating ‘I Have a Right!’ project. The government has not communicated reasons for the termination. However, the Ministry of Justice informed that legal awareness-raising would be continued through the free legal aid providers.

5. President Signs Law Providing Veteran Status to Volunteer ‘ATO’ Participants

On 23 December 2019, the President signed Law No. [329-IX](#) creating a scope for obtaining the legal status of ‘ATO’ veterans for individuals who participated in ‘ATO’ before 24 February 2018, under voluntary formations which had not been a part of the Armed Forces of Ukraine. In order to qualify for the veteran legal status, an applicant is required to had spent at least 30 days within the ‘ATO’ area as a volunteer combatant. Applications will be considered by a special administrative commission established by the Ministry of Veterans.

The status will make an individual entitled to certain social benefits, including 75% utility fee discount, shorter retirement age, free rehabilitation, and some other social benefits.

Some of the terminology used in this issue of the Alert was taken from the draft laws or current legislation and does not necessarily reflect the position of the DRC-DDG.

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