

# UKRAINE Legislative Update

## UNHCR update on displacement-related legislation | March 2020

### Adopted Legislation

- Legal response to the COVID-19 outbreak in Ukraine (multiple acts)

### Draft Legislation

- Exemption of payment of tourist fees for IDPs

## Adopted Legislation

### Legal response to the COVID-19 outbreak in Ukraine

In March 2020, the Ukrainian government adopted a set of legal measures to prevent the further expansion of the coronavirus disease (COVID-19) throughout its territory. A first set of restrictive quarantine measures was adopted on 11 March, with Resolution #211<sup>1</sup> that ordered temporary closure of schools, kindergarten and cinemas until 3 April. This was followed by the closure of inter-city and inter-oblast public transport (bus, railroad, and air) and limiting the city public transport capacity to 10 persons per vehicle (bus, tram or trolleybus) by Resolution #215 of 16 March<sup>2</sup>. On 20 March, in Resolution # 242<sup>3</sup>, the Government specified a list of duties that shall be provided by the centres for the provision of administrative services (TSNAPs) during the quarantine regime, including the issuance of national Ukrainian passports in the form of ID cards, the replacement of a photo in the book-shaped passport of persons aged 25 and 45, the replacement of stolen or lost driving licenses, registration of birth and death. The quarantine measures were prolonged until 24 April by Resolution #239 adopted on 25 March<sup>4</sup>. Moreover, on 29 March the Cabinet of Ministers adopted Resolution #241<sup>5</sup>, which imposes a so called “self-isolation regime” for those who were in contact with persons infected with COVID-19 or who returned from abroad. A regime of “isolation” was introduced for those who breach “self-isolation”. The “self-isolation” regime means staying at home for 14 days, while for those who returned from abroad “isolation” refers to staying in observation sites in order to be identified by the Kyiv city state administration and oblast administrations.

### Freedom of movement restrictions

On 13 March the National Security and Defence Council adopted the decision<sup>6</sup> to enforce a temporary closure of checkpoints at the Ukrainian border. Foreigners and stateless persons are temporarily prohibited to enter Ukraine (apart for those with residence permits, for diplomatic and consular staff, staff<sup>7</sup> of international organizations and workers of humanitarian missions). These restrictions were mirrored in the Government Regulation #290-p<sup>8</sup> of 16 March.

<sup>1</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-zapobigannya-poshim110320rennyu-na-teritoriyi-ukrayini-koronavirusu-covid-19>

<sup>2</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-postanovi-kabinetu-ministriv-ukrayini-vid-11-bereznia-t160320>

<sup>3</sup> The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/242-2020-%D0%BF#n8>

<sup>4</sup> The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/239-2020-%D0%BF#n9>

<sup>5</sup> The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/241-2020-%D0%BF#n8>

<sup>6</sup> The full text available online (in Ukrainian): <https://www.rnbo.gov.ua/ua/Ukazy/4581.html>

<sup>7</sup> The Ministry for Foreign Affairs is in charge of adopting decisions in such cases

<sup>8</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vnesennya-zmini-do-rozporядzhennya-kabinetu-ministriv-ukrayini-vid-14-bereznia-t160320>

**Government Regulation #291-p**<sup>9</sup> temporarily restricted the crossing of the administrative border with Crimea as of 14 March: (1) entering Crimea is possible only for persons with residence registration there; (2) leaving Crimea is allowed only for persons with residence registration in mainland Ukraine. However, the permission to cross the administrative border was also given based on humanitarian grounds (such as family unity, funerals of close relatives, health issues or other extraordinary events). A comprehensive list of humanitarian grounds has not been defined. Instead, the Head of State Border Guard Services is entitled to take these decisions on a case by case basis.

On 18 March, the Ministry of Education issued an official letter<sup>10</sup> stating that, during the quarantine period, students residing in dormitories shall not be ordered to leave the dormitories to return home. This measure is justified by the impossibility to travel within Ukraine due to the closure of public transport and other restrictions related to the crossing of the line of contact (LoC) in the east and the administrative border with Crimea.

On 21 March, the Joint Forces Operation (JFO) press-centre announced<sup>11</sup> that crossing the LoC became temporarily prohibited for individuals and transport vehicles. Exceptions are applicable to UN, ICRC and OSCE personnel and to those who need to cross the LoC due to critical life circumstances. In a similar situation, as with the crossing of the administrative border with Crimea, the JFO Commander-in-Chief takes decisions on a case by case basis as critical life circumstances were not defined. On 27 March, the JFO introduced<sup>12</sup> further restrictions for entering and exiting the Donetsk and Luhansk oblasts from the Kharkiv, Dnipropetrovsk and Zaporizhzhya oblasts which entered into force on 28 March. People with residence registration in the Donetsk and Luhansk oblasts are advised not to leave these oblasts, while those with residence registration in other oblasts are advised not to enter the two eastern oblasts. These restrictions are not applicable to persons and legal entities involved in supporting the Donetsk and Luhansk oblasts with the provision of food parcels, medical items and related products, as well as to UN, OSCE and ICRC personnel and vehicles. This situation will require additional monitoring.

### **Announcement of emergency situations**

With an increase of positive COVID-19 infected individuals, several oblasts introduced a situation of emergency at the local level to ensure effective inter-agency coordination at the oblast level. Such announcements were made in the Chernivtsi and Zhytomyr oblasts<sup>13</sup> on 17 March, in the Kyiv oblast<sup>14</sup> on 18 March, in the city of Kyiv<sup>15</sup> and the Dnipropetrovsk<sup>16</sup> and Ivano-Frankivsk<sup>17</sup> oblasts, on 20 March, and in the Donetsk, Ternopil and Cherkasy oblasts<sup>18</sup> on 23 March. From 25 March until 24 April, the situation of emergency has been introduced

<sup>9</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-timchasove-pripinennya-roboti-kontrolnih-punktiv-vyizdu-na-timchasovo-okupovanu-teritoriyu-avtonomnoyi-respubliki-krim-i-m-sevastopolya-291140320>

<sup>10</sup> The summary available online (in Ukrainian): <https://mon.gov.ua/ua/news/viselennya-studentiv-z-gurtozhitkiv-na-period-karantynu-ye-nepripustimim-list-mon>

<sup>11</sup> The full text available online (in Ukrainian): <https://mtot.gov.ua/ua/v-raoni-provedennja-oos-timchasovo-pripinjaetsja-propusk-cherez-liniju-rozmejuvannja>

<sup>12</sup> The summary available online (in Ukrainian): [https://www.facebook.com/pressjfo.news/?\\_\\_tn\\_\\_=kC-](https://www.facebook.com/pressjfo.news/?__tn__=kC-)

[R&eid=ARChkbbjrrjKrXq2WiDtZ14rJhy9HPhVCpsFbMJXt-](https://www.facebook.com/pressjfo.news/?__tn__=kC-R&eid=ARChkbbjrrjKrXq2WiDtZ14rJhy9HPhVCpsFbMJXt-XknQezPhS7JfPTkgKPQVlg5XjtKvRuQL9oDtHlf&hc_ref=ARSlhJFiv97Lo314D6ZwcFpZ9aPzX7ASJX0XpjDDAQ6hc5sUX5nYGS8HDlgayN1O_M&fref=nf)

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<sup>13</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vstanovlennya-rezhimu-nadzvichajnoyi-situaciyi-v-zhitomirskij-ta-chemiveckij-oblastyah-320160320>

<sup>14</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vstanovlennya-rezhimu-nadzvichajnoyi-situaciyi-v-kiyivskij-oblasti-321180320>

<sup>15</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vstanovlennya-rezhimu-nadzvichajnoyi-situaciyi-u-m-kiyevi-324200320>

<sup>16</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vstanovlennya-rezhimu-nadzvichajnoyi-situaciyi-v-dnipropetrovskij-oblasti-322200320>

<sup>17</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vstanovlennya-rezhimu-nadzvichajnoyi-situaciyi-v-ivano-frankivskij-oblasti-323200320>

<sup>18</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-vstanovlennya-rezhimu-nadzvichajnoyi-situaciyi-v-doneckij-ternopilskij-ta-cherkaskij-t230320>

to the whole territory of Ukraine.<sup>19</sup> The announcement of the emergency situation did not introduce any additional restrictive measures, since it is aimed at effective coordination and introduction of organizational measures through inter-agency emergency squads for a quicker decision making process at the central and local levels.

### Parliament introduced measures

On 17 March, the Parliament adopted two laws on preventive and reactive measures which entered into force on 18 March: the law #533-IX<sup>20</sup> which introduced simple measures, such as the temporarily release for individual entrepreneurs from paying certain taxes and a delay in reporting equivalent to the quarantine period, and the law #530-IX<sup>21</sup>, much more complex and described below. All the measures introduced are applicable for the period of quarantine and 30 days following the lifting of all the restrictions.

The [Law #530-IX](#) introduces administrative<sup>22</sup> and criminal<sup>23</sup> liability for breaching the quarantine measures and intentional spreading of COVID-19. Imported medical goods<sup>24</sup>, including medicines, equipment and hygiene items relevant for combatting COVID-19, shall be temporary exempt from the VAT. During the quarantine, customs procedures shall be simplified and customs payments shall be lifted. To facilitate the procurement of the necessary medical goods, the public tendering procedure is also simplified.

The law strengthens the protection of human rights during the period of quarantine in several ways, also supporting all categories of UNHCR's persons of concern. For instance, a period of forced lockdown and the impossibility to work from home shall not be counted towards the "leave without pay"<sup>25</sup> (LWP), which safeguards employed persons from possible discontinuation of a contract due to exhausted LWP option; no fines/financial liability shall be applicable in case persons fail to pay utility bills; the provision of utility services must not be interrupted based on a failure to pay the bills; no forced evictions shall be exercised towards individuals who cannot pay housing loans or with regard to whom there are respective court decisions on eviction during the quarantine. Forced evictions from social housing are also prohibited. Housing subsidies cannot be suspended. The Government shall elaborate a normative framework allowing for the automatic prolongation of allocated housing subsidies, for the period of quarantine.

The IDP certificates cannot be revoked even if a registered IDP is absent in the government-controlled area (GCA) for over 60 days. This means that the registration as an IDP is not cancelled even for persons who currently stay in the non-government-controlled areas (NGCA) of the Donetsk and Luhansk oblasts. Their pensions and social benefits cannot be suspended during the quarantine. No verifications and home visits to IDPs can be conducted and thus the prolongation of social payments and pension payment to IDPs shall be done automatically. No physical identification in the Oshchadbank during quarantine period is conducted and this will not affect servicing their bank accounts.<sup>26</sup> The Oshchadbank shall automatically prolong, until 1 July, the validity of those bank cards expected to expire during the quarantine period.

<sup>19</sup> The full text available online (in Ukrainian): <https://www.kmu.gov.ua/npas/pro-perevedennya-yedinoyi-derzhavnoyi-sistemi-civilnogo-zahistu-u-rezhim-nadzvichajnoyi-situaciyi-338250320>

<sup>20</sup> The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/533-IX>

<sup>21</sup> The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/530-IX>

<sup>22</sup> The Code of administrative violations introduces fines between 3400 UA and 17000 UAH for breaching quarantine measures announced by the Government

<sup>23</sup> Criminal liability for causing wide spread of an infectious disease COVID-19 is introduced to the Criminal Code in form of fines between 1700 UAH to 3400 UAH or arrest for up to three years

<sup>24</sup> The Government shall elaborate a list of such goods

<sup>25</sup> This period amounts to 15 calendar days

<sup>26</sup> This information available online (in Ukrainian): <https://www.oschadbank.ua/ua/private/paycards/moia-kraina>

Foreigners and stateless persons with an expired visa or residence permit shall not fall under any form of liability, including administrative fines and expulsion. The State Migration Service will accept documents for ID cards or for other services at the place of application, instead of the place of residence registration. If temporary accommodation centres (TACs) for asylum-seekers and refugees are located in the quarantined areas, asylum-seekers and refugees requiring accommodation may be hosted in other facilities<sup>27</sup> identified in other oblasts.

On 30 March, during its extraordinary session, the Parliament adopted several other laws related to the prevention of further expansion of COVID-19 in Ukraine.

The [Law 539-IX](#)<sup>28</sup>, which entered into force on 1 April, allows the prescription and usage of unlicensed medicines in Ukraine for the treatment of COVID-19 infected patients. This exemption to only prescribe and use licensed medicines covers all medical items/ medicines officially recommended and used by the USA, EU countries, Great Britain, Switzerland, Japan, Australia, Canada, China or Israel. Such medicines need to be specifically mentioned in the medical protocols endorsed by the Ministry of Health.

The [Law 540-IX](#)<sup>29</sup>, signed by the President on 1 April, is a complex initiative that regulates multiple issues related to the quarantine measures introduced in response to the COVID-19 outbreak in Ukraine. It contains a set of important developments on strengthening the protection of social rights of vulnerable categories of the population, who may also possess IDP certificates<sup>30</sup> as described further

The assistance to households with low income will be prolonged automatically. There is no need to come to the social protection department and submit the relevant documents. After the quarantine measures are lifted, the paid assistance will be recalculated to see if any adjustments are needed.

The timelines to apply for assistance for families with children are prolonged for the quarantine period and for the 30 days following the lifting of all restrictions. This means that if the statutory limitations to apply for any specific assistance expire during the quarantine or 30 days after, families may apply within 30 days after the quarantine measures are lifted.

For persons with disabilities who are entitled to social benefits upon regular examination but who missed a regular medical examination by a medical social commission (known as MSEC) because of the quarantine, the social benefits would be paid during the quarantine period without any review. After these measures are lifted, the amount would be recalculated after the persons concerned submit the relevant applications with the results of their medical check-up. The same approach will be applicable to social benefits for children with disabilities and for persons with disabilities since childhood, as well as to other types of social assistance to persons with disabilities. Therefore, all categories of persons with disabilities are restrained from visiting public offices, which in many locations are also working remotely. The adoption of these rules was necessary to protect vulnerable individuals who are at heightened risk of COVID-19 infection.

The assistance for unemployment shall be assigned on the same day when the status of an unemployed person is granted<sup>31</sup>. This status shall be confirmed online or over the phone and the assistance will be granted without a physical visit to the State Employment Service department.

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<sup>27</sup> The Government is responsible for identifying the list of such facilities

<sup>28</sup> The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/539-IX>

<sup>29</sup> The full text available online (in Ukrainian): [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68479](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68479) or <https://zakon.rada.gov.ua/laws/show/540-IX>

<sup>30</sup> IDP specific protection measures were introduced earlier and are described in detail in the thematic covid-related update circulated on 27 March 2020.

<sup>31</sup> The Cabinet of Ministers of Ukraine in its Resolution 244 of 29 March 2020 already introduced necessary amendments to the Regulation on Registering of Unemployed Individuals available in Ukrainian here: <https://www.kmu.gov.ua/npas/pro-vnesennya-zmin-do-poryadku-reyestraciyi-perereyestraciyi-bezrobotnih-ta-vedennya-obliku-t290320>

Doctors and other personnel involved in the operational response to the COVID-19 outbreak would receive up to 300% of their regular salaries.

Other important developments include:

- The possibility of remote court hearings via electronic means, which is important for cases related to the expulsion of asylum-seekers;
- Landlords shall not charge rent payments under the Civil Code for this period. This is a positive development for those who have an official rent agreement, which is not always the case for UNHCR beneficiaries.
- The Labour Code contains multiple improvements regarding the arrangement of flexible working hours and remote working conditions for enterprises of all types. However, this would be applicable only to persons who are officially employed. The Law on Employment requires employers to take preventive measures for their enterprises in situations of epidemics, based on the decision of the local state administrations. In such cases, all officially employed staff are entitled to financial assistance on partial non-employment from the Employment Centres. Additionally, during the quarantine period the Government may temporarily suspend the obligation to obtain working permits for foreigners and stateless persons.

## Draft legislation

### Exemption of payment of tourist fees for IDPs

On 13 March, MPs registered in the Parliament the alternative draft law #3103-1<sup>32</sup> that amends Article 268 of the Tax Code to exempt IDPs from payment of a tourist fee. In comparison with a primary draft law #3103, providing this exemption to IDPs residing in hotels and in other similar facilities such as collective centres, the alternative draft initiative proposes to exempt from paying tourist fees for all persons possessing an IDP certificate. This suggestion is “registration-based” and not “needs-based” and thus may result in unequal treatment in comparison to the other citizens of Ukraine.

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## LINKS

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<sup>32</sup> The full text available online (in Ukrainian): [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68378](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68378)