

UNHCR flash legislative update

on response to COVID-19 outbreak in Ukraine and its impact on UNCHR's operation in Ukraine

21 April 2020

In mid-April, the Parliament adopted additional measures related to the response to the COVID-19 outbreak in Ukraine, while the Government continues to promulgate its Resolutions of 8 April. This update provides information on the new measures adopted and needs to be read in conjunction with the flash updates issued earlier.

Protection related provisions

The Resolution #266¹ strengthens the *protection of social rights of IDPs* through specifying the provision of social benefits to IDPs during the quarantine period:

- In case the 6 months' term for the payment of the IDP targeted assistance expires during the quarantine period or during the 30 days that will follow the end of that period, it will be automatically prolonged for another 6 months. This means that IDPs will not have to come or in any other way apply to a social protection department for the prolongation of their targeted assistance. The same is applicable to all social benefits² to which IDPs are entitled;
- Residence in NGCA or Crimea during the quarantine period or during the 30 days following the end of the quarantine measures will not be counted towards the 60 days' term allowed for staying in territories outside Governmental control. Therefore, persons who remain in these territories will not be deprived of their IDP targeted assistance, of other social benefits and pensions during that period. The payments will be automatically allocated on their bank accounts without the verification that should have been conducted by "Oshchadbank" in a regular situation;
- The IDP certificates will not be revoked during the quarantine period or during the 30 days following the end of the quarantine measures. In a regular situation, in case an IDP is absent at the controlled part of the territory for 60 days or more, his/her IDP registration is cancelled and the IDP certificate is revoked.

This initiative is a positive step towards the implementation of the Law 530-IX adopted on 17 March 2020, which introduced the automatic prolongation of all social benefits for IDPs during the quarantine measures adopted by the Government and for 30 days after they are lifted. It is of extreme importance to disseminate this information among IDPs and conflict-affected population and monitor how these rules are implemented.

Staying in observation

The Law #555-IX³ introduces a set of basic definitions related to staying in observation and specifies the exchange of information related to potential cases of COVID-19 infection in Ukraine:

- The law defines "self-isolation", "observation site" and "observation". The main difference between self-isolation and observation resides in the level of restrictions in the two regimes: self-isolated persons can decide for themselves where to undergo isolation measures while, when in observation, a person is placed in an identified facility. The self-isolation regime applies to those with regards to whom there are "reasonable grounds" (*not specified*) to believe that a person is infected or belongs to the risk group of persons who could be severely affected if infected. The observation regime applies to those who can create a risk of spreading the infection (e.g. already tested positive but are experiencing mild symptoms), who require medical check and treatment.

¹ The full text available online (in Ukrainian): https://zakon.rada.gov.ua/laws/show/266-2020-%D0%BF?fbclid=IwAR0cK3P89c1Q-yji_U5xwylipoqA3skWG1z06bN8BSkDvgttCH2xKMx0TCQ

² Please see more details in second UNHCR flash internal update disseminated on 14 April

³ The full text available online (in Ukrainian): <https://zakon.rada.gov.ua/laws/show/555-IX>

The functions of the local authorities to specify the grounds for self-isolation or observation in local emergency situations are not clear;

- A “territory under quarantine” (to be defined by local authorities) is completed by “other administrative and territorial units within it”. This may allow for an application of lighter or more restrictive quarantine measures to one or several settlements/areas/parts of cities;
- The Ministry of Health should define how to equip and to ensure the proper functioning of identified observation sites;
- If a person wants to leave territory under quarantine before the quarantine measures are lifted, (s)he should receive a **special certificate allowing him/her to leave the quarantined zone during the incubation period (14 days)**. The Ministry of Health should elaborate a template for such certificates. *It is not totally clear who and how one would assess whether the health status of a person would justify the possibility to leave the quarantined territory. Moreover, the “quarantined zone” is not defined;*
- Persons in self-isolation/observation will receive sick leave notes and will have access to the respective social benefits for persons temporarily not able to work after a disease (*which is relevant only for those who are officially employed*);
- The Government’s decision to apply quarantine measures may define a special procedure to record such situations as well as to regulate the exchange of information on medical cases during the quarantine period. *It is not totally clear how this rule will be implemented. It may be done through special application for tracking COVID-19 cases described in the Government Resolution #255 or by other measures. The details might be specified in a subsequent Government Resolution;*
- **Threat to personal data protection:** Transitional provisions allow personal data processing without agreement of the persons concerned with regard to health status, place of self-isolation/hospitalization, surname, name, patronymic, date of birth, place of residence, work/study place. *This means that personal data of anyone in self-isolation may be collected and exchanged among different state authorities without the consent of the person or without the person being aware that his/her personal data is shared among the authorities.* The only safeguard is in the statement that the data shall be used only for “reasons related to the quarantine measures”. These data should be depersonalized or deleted during 30 days after the quarantine measures are lifted. The processing of these data is not clearly specified. It may be assumed that it will happen through a new e-application for tracking COVID-19 cases, but its operational scope is not properly tested. In addition to this, personal data may be processed through other channels which are not specified.