1. **List of Draft Laws and Resolutions on Conflict Affected People’s Rights in the Agenda of the Upcoming Parliamentary Session**

The 9th Parliamentary Session started on 4 September 2018 and expected to continue till 25 January 2019. We have reviewed the draft agenda¹ (yet to be finalized) of the current Session in order to obtain preliminary understanding of draft initiatives that the Parliament plans to consider during the Session.

The table below contains only those drafts that have bearings on conflict affected people’s rights, and were recommended by the respective Parliamentary Committees for adoption.

<table>
<thead>
<tr>
<th>Draft Initiative Number and Overview of its Purpose</th>
<th>Waiting for parliamentary hearing² as of 4 September 2018</th>
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</thead>
<tbody>
<tr>
<td><strong>HLP-Related Initiatives</strong></td>
<td></td>
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<tr>
<td>No. 4264 – priority use of state housing units by IDPs initially designated for use by refugees (First hearing)</td>
<td>441 days</td>
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<tr>
<td>No. 5107 – IDP social housing in GCA; removal of Six-month maximum limit on provision of temporary housing to IDPs (First hearing)</td>
<td>595 days</td>
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<tr>
<td>No. 6142 – Six additional months of housing and registration at dormitories for graduating IDP university students (Second hearing³)</td>
<td>62 days</td>
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<tr>
<td>No. 2167 – compensation for damage and destruction of IDP property within the NGCA dealt as a result of the conflict (First hearing)</td>
<td>1244 days</td>
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<td><strong>Other initiatives</strong></td>
<td></td>
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<tr>
<td>No. 3459-I – provision of free food to children of IDPs, including free food for infants and free food for school students (Second hearing)</td>
<td>454 days</td>
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<tr>
<td>No. 7081 – include IDPs as a social group entitled to social insurance (pension) calculation without the obligation to pay social insurance fees for the period of been IDPs (First hearing)</td>
<td>210 days</td>
</tr>
<tr>
<td>No. 8255 – Adoption of a comprehensive programme on support to IDPs and people living near the contact line. Program features include insuring housing, provision of employment, medical services, and education; increase of IDP monthly assistance up to a living wage; provision of pension and social assistance to IDPs regardless of IDP registration; adoption of procedure for compensation of damages dealt due to the Conflict (First hearing)</td>
<td>91 days</td>
</tr>
</tbody>
</table>

The list is not exhaustive. New items can be added to the session agenda as the hearings proceed. To be considered by the Parliament, a draft still has to be included to a monthly agenda and thereafter to a weekly agenda.

²Waiting period, for the purpose of this discussion, indicates the number of days since a profile Parliamentary Committee made a recommendation on Draft’s adoption
During the first hearing the Parliament considers a draft as a basis for further revision in the second hearing and may adopt it as a basis, reject it, or return for improvement. The second hearing in its turn may lead to a final adoption, a rejection, or to another round of editing and consideration. Some of the heavily advocated draft laws on ensuring IDPs’ rights were not included in the draft agenda:

| Draft Law No. 6240: ensures election rights of IDPs who currently cannot participate in local elections | Draft Law No. 6692: provides access to pension to NGCA-residents, lifting the 3-years statute of limitation, and use of Pension Fund’s electronic register on insured persons in cases when individuals lack necessary documents⁴. The Head of Parliamentary Committee on Human Rights is reported⁵ to have made 15 unsuccessful attempts to include the draft law in the Agenda |

2. **Cabinet Enhances Protection Against Gender-Based and Domestic Violence Through a Set of New Resolutions**

On 22 August 2018 the Cabinet has adopted a set of Resolutions designed to enhance national system of protection from gender-based and domestic violence (‘violence’). Features and services introduced by these Resolutions include provision of temporary housing for the victims⁶, creation of emergency mobile response service⁷ and the establishment of interagency cooperation⁸.

- outlines mechanisms for detection and response to violence, including provision of social, medical, psychological, and legal assistance to the victims and action against the abusers
- Ministry of Social Policy will lead the coordination at the national level, while city and village councils, supported by advisory bodies, will coordinate at the local levels
- advisory bodies will include representatives of local city council, prosecutor’s office and court officials. Members of public organisations may join the advisory body on a voluntary basis

Resolution No. 658

- creates framework for provision of safe custody for the victims
- safe custody encompasses cost free provision of shelter, and psycho-social, informational, legal, and other services. Additional paid services may be introduced on an optional basis
- a victim may stay in a safe custody for a maximum duration of three months with a scope to extend for an additional three months on exceptional circumstances

Resolution No. 655

- outlines functioning of mobile team for psycho-social supports to the victims
- mobile services will include psychological help, provision of information on accessible medical, social, and legal remedies, and provision of educational services where appropriate
- establishment of mobile team, however, is not mandatory and therefore left at the discretion of the respective local councils

Resolution No. 654

3. **Cabinet Adopted Strategy for Donbas Informational Reintegration**

On 26 July 2018 the Cabinet adopted a Strategy for Informational Reintegration of Donetsk and Luhansk regions⁹ by 2020, aiming at ensuring NGCA residents’ access to Ukrainian informational field.

Salient features of the Strategy:

- systematic work with IDPs as important communication channel for reaching NGCA residents
- extension of TV and radio broadcasting zones within the NGCA
- development of a specialised informational content production and distribution system

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The Strategy aims at creating the following perception about Ukraine and the conflict. The following are direct quotes from this Strategy:

- Ukraine is a stable and responsive state able to provide various development opportunities to its citizens
- Ukraine adheres to the rule of law, and the principles of justice and fairness which define Ukraine’s understanding of the circumstances of the NGCA residents
- historically Donetsk and Luhansk regions have been integral parts of an united economic, social, and cultural space of Ukraine
- NGCA residents were misled and made ‘captive’ of the situation by ‘Russian politics’
- European integration of Ukraine – inclusive of Donetsk and Luhansk regions as inseparable areas of the state – is the only way to realise their full potential

4. **The Cabinet Follows Up with By-Laws on Housing for Orphan Children, Baby-Boxes, and Alimones**

In previous Legal Alert issues we reported on three new laws and Cabinet Resolutions that enhanced certain child protection mechanisms. In August, the Cabinet has created the necessary by-laws for those protection mechanisms to be effective. Following are the outcomes of the recent Cabinet actions:

i) Baby-box pilot project[^10] gets directions on financing and logistics to start running from September, 2018. A baby-box has to be provided within 30 days of birth

ii) Guardianship and custody officers are made responsible[^11] to take initiative to apply for social housing on behalf of 16+ years old children deprived of parental care

iii) Prior to the recent changes, a parent had to obtain a notarised permission of the other parent to take a child abroad. In July 2018 Law No. 2475 provided an exception stating that no permission of the other parent is required when the parent fails to pay alimony for more than four months. Now, a new by-law[^12] provides that a debt certificate – a document provided by State Enforcement Service testifying the fact and sum of unpaid alimones – can be used to take a child abroad without the notarised permission. Debt certificate is provided within 10 days of request, is valid for one month, and does not require any additional judicial proceedings after a decision granting alimony is delivered

5. **Cabinet Expands Category of Ukrainian Prisoners of the Conflict entitled to State Assistance**

On 26 July 2018 the Cabinet amended[^13] Resolution No. 328 to expand the number of Ukrainian prisoners of the Conflict entitled to state assistance.

Previously, 100, 000 UAH assistance was provided only to a defined list of 74 Ukrainian citizens[^14] who were imprisoned within the areas of the so-called ‘LNR’ and ‘DNR’ and released on the 27 December 2017 and 24 January 2018 during an exchange of prisoners.

Now, any Ukrainian previously or currently captured by 'Russia's authorities' or actors of the 'so-called 'LNR' & 'DNR' within NGCA and Crimea will be eligible for the assistance. The same goes for their family members, who previously were not eligible. However, since the number of applicable prisoners is limited by prisoners arrested within the NGCA and Crimea those Ukrainians who were arrested within Russia's recognised borders - even for political reasons – will not qualify for assistance

6. **The Supreme Court Rules that IDPs Cannot Be Included to Voters Register on the Basis of their IDP Certificates**

On 25 July 2018 the Supreme Court of Ukraine has delivered a final judgment\(^{15}\) denying an IDP to use her IDP certificate as a basis for inclusion in the local voters register. The case pertained to an IDP who sought a ruling from the court instructing a local council to include her to the voters register by changing her voter address from her previous address in NGCA to a new one at her current displaced location.

**Background:** In November, 2016 the IDP claimant applied to Lutsk local council to update her address in the voters register so as to ensure her election rights. The IDP provided an IDP certificate with a stamped record of her whereabouts within the local community.

i) **Lutsk city council** initially denied the application stating that and IDP certificate does not qualify as a proper proof of belonging to the local community

ii) **First-instance court:** In December, 2016 the IDP appealed Lutsk City Council’s decision to the Lutsk first-instance court which ruled\(^{16}\) in IDP’s favour. First instance stated that a stamped whereabouts registration record provided in an IDP certificate sufficiently proved IDP’s permanent residence within the community.

iii) **Court of Appeal:** In January 2017 Lutsk City Council appealed first-instance ruling. The appellate court quashed\(^{17}\) the first instance decision by March 2017 and ruled that the City Council was lawful in denying initial IDP application. The appellate court stated that the only proof of citizen’s belonging to a community is his/her living residence record provided in the national passport. The IDP certificate record, the court of appeal held, indicated not the living residence but IDP’s current whereabouts.

**Position of the Supreme Court:** In June 2017, the IDP appealed the decision of the court of appeal to the Supreme Court of Ukraine. After a year, the Supreme Court supported the position of the court of appeal, stating that an IDP certificate indicates only temporary residence of a person. Inclusion to the local voters register, on the contrary, is possible only on the basis of permanent living residence record provided in the national passport.

**Implications of the Supreme Court’s Ruling:** The judgement blocks IDP’s right to participate in local elections. With regards to national elections (President, Parliamentary, or referendum), IDPs still have the scope to vote by applying to the local election office for temporary change of voting place on each election event. The application must be submitted by an IDP personally and include a copy of IDP certificate. Exception is made for IDPs who have moved from Crimea – it is sufficient for them to provide a passport with a Crimean registration.

This cumbersome process may dissuade many IDPs from voting in the upcoming national elections. According to the June 2018 issue of IOM’s quarterly National Monitoring System Report\(^{18}\), 41% of IDPs intend to vote in the next president and parliamentary elections. Among those who are not interested in voting, 31% mentioned that they did not know that IDPs had the right to vote at the place of displacement.

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Some terminology 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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This document has been funded by GIZ. GIZ is not responsible for the content of this publication.

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