1. Cabinet Stimulates Affordable Housing Programme

**Background:** On 10 October 2018 the Cabinet has adopted Resolution No. 819 introducing significant changes to the existing affordable housing programme. The programme, first introduced in 2009, aimed to support the national construction industry and provide affordable housing to vulnerable citizens by covering 30% of the housing price. Though the programme intended to provide affordable housing to 265,800 families, as of the end of 2016, only 3,660 flats were provided to the applicants. Major modifications to the programme were introduced in April and September, 2017. These modifications permitted IDPs to participate in the programme, with the State covering 50% of housing price regardless of ownership of residential property in NGCA and Crimea. Please refer to the annexed DRC-DDG Briefing Note for more details about the programme prior to last month’s modifications. Despite the 2017 amendments, the programme’s implementation faced several practical obstacles. The current Cabinet Resolution attempts to cure those practical obstacles.

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<th>Table 1: Salient Programme Features</th>
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<tr>
<td>Programme Timeframe</td>
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<tr>
<td>Maximum household monthly income level</td>
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| What housing can be acquired under the programme? | i) Only non-commissioned developers’ buildings  
ii) Applicants could only choose from an exhaustive list created by a special administrative commission through a bureaucratically challenging process | i) Both non-commissioned and commissioned developers’ buildings qualify. However, the programme remains limited to developers’ buildings  
ii) Applicants are free to choose the housing option on their own; there is no more any exhaustive list of possible options |
| Transfer Restriction                | No restriction | Ownership of the housing cannot be transferred for 3 years |
| Principle for allocation of funding from the state budget | State funding is allocated based on the number of applications submitted within the local community | State funding will be allocated based on the population size of the local community |

**Procedure for Use of Programme Funds:** In the past, anomalies in the procedure for use of the funds had caused a proportion of funds to be unspent despite the heavy unmet demands from the people. The amendment has introduced a new procedure for the use of programme’s funds. The programme has three listed sources of funding, i.e state budget, local budget and other resources. Funding received from donors is considered as other resources.

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1. While it may seem that the requirement on the maximum household monthly income has become more strict it should be considered bearing in mind that since 2009 the regional average salary has increased – even considering national currency inflation
2. Due to State Statistics data. For example, in September, 2018 average salary in Donetsk region was 9850 UAH while national average is 9 042
2. Law on Local Government in NGCA is Extended by 31 December 2019

Background: On 4 October the Parliament has adopted Law No. 2588 prolonging the validity period of the law ‘On Special Regime of Local Governance in Particular Areas of Donetsk and Luhansk Regions’. The law was initially introduced in September 2014 for a period of three years pursuant to the First Minsk Agreement concluded on 5 September 2014. The law was extended for the first time in September 2017 for a year, and now for the second time until 31 December 2019.

Meaning: The law is crucial for the implementation of the 13 point Minsk Package of Measures (known as Minsk Arrangements) that came in force on 15 February 2015. Article 10 of the law provides that its provisions will only come in force once local elections in NGCA are successfully held under Ukrainian law. Such elections have not yet taken place, as they are also conditioned by the law on withdrawal of all non-government forces from the NGCA and attainment of complete ceasefire.

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<th>Table 2: Salient Features of the Law</th>
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<tr>
<td><strong>Political Elements</strong></td>
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<td>Early elections of local municipal authorities – to be held in accordance with the Constitution of Ukraine and under international supervision. Elected officials cannot be dismissed early</td>
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<td>‘People’s Police Squads’ are to be formed by the local municipal authorities. They will be responsible for the protection of public order and subordinated directly to the respective local mayors</td>
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<td>Local municipal authorities shall be involved in the appointment of officials of the judicial and prosecutor’s offices</td>
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3. The Parliament Makes Illegal Border Crossing a Criminal Offence When Committed With Intention to Harm State Interests

On 18 October 2018 the Parliament has adopted Law No. 2599 introducing criminal liability for illegal crossing of State border by a certain categories of persons defined in the law. These three categories include 1) persons crossing state border with intention to harm State’s interests; 2) persons barred from entering the State; 3) persons belonging to what the law called “aggressor-state’s power agencies”. Outside the specific parameter of this new law, all other cases of illegal crossing of border remain as an administrative offence. However, it does not extend to victims of human trafficking and persons seeking asylum or refugee protection.

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<th>Table 3: Comparison of Administrative and Criminal Responsibility</th>
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<tr>
<td><strong>Administrative responsibility under existing article 204-1 of Code of Administrative Offences</strong></td>
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<td>What is considered as illegal crossing?</td>
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<td>Who can be charged for the offence?</td>
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<td>What are the sanctions?</td>
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The two key differences between the two qualifications - administrative or criminal offence - are the person who commits the offence and her/his intention.

The Law raises the following concerns:

1) two of the three categories of people subjected to the criminal responsibility are well defined. However, the third category, i.e. person crossing the border with an intention to harm state interest, can create scope for abuses. Those who would otherwise be charged for administrative offence, including Ukrainian citizens, now can be charged for a criminal one based only on an allegation of holding an intention to harm State interest.

2) while the law refers to the State interest it does not provide a definition of such interest. It is likely that the definition will be adopted from the Law 'On National Security of Ukraine', according to which State interest covers State sovereignty and integrity, development of national economic and civil society, and State’s integration to European political, economic, security, and legal fields. In that case, the scope of the definition could appear to be too wide and interpret innocent acts of ordinary citizen as harming state interest.

4. Government Updates Regulation on Social Assistance to Captives of the Conflict

In the August issue of DRC-DDG Legal Alert, we reported Cabinet’s social aid programme for individuals who were held captive in so-called ‘DNR’ and ‘LNR’. The programme includes 100,000 UAH assistance to the individuals or their families assigned by a Special Administrative Commission under the Ministry of Temporary Occupied Territories (MinTOT). In October, 2018 the Cabinet and the MinTOT followed up with updates on the programme.

A) On 17 October 2018 the Cabinet adopted Resolution No. 869 making the following changes:
   - only those Ukrainian citizens who were captured as a result of their civic or political activities will qualify for the assistance
   - previously, the assistance was only available for Ukrainian citizens captured within the NGCA and Crimea – but not in Russia. Now, those captives are also eligible.

B) On 18 October 2018 the MinToT issued Order No. 106 appointing members to the Commission, and providing regulation for the functioning of the Commission. It will be headed by the First Deputy Minister and will proceed with hearing on an ad hoc basis, but not less than once a quarter.

5. President Signs Law on Equal Opportunities for Women within the Armed Forces

On 12 October 2018 the President has signed Law No. 2523 aiming to ensure equal opportunities within the Armed Forces for women and men. Among other provisions, the Law removes additional military service age restrictions for women and introduces the same regulation for reserve service and retirement policy for both sexes.


On 17 October 2018 the President has signed Law No. 2061 expanding existing state programme on recreation and rehabilitation of children. Now, those children whose parent(s) have disabilities within the first or second disability group are also eligible for the programme. It will also include children of journalists, who died on duty.3

Prior to the change, the programme was already available for 17 other groups of children including:
   - children registered as IDPs or residing in the contact line areas
   - children of persons who died/disappeared in connection with the ‘ATO’
   - orphans and children deprived of parental care
   - children from low-income families and families with 3 or more children

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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3 Children of such journalists are included to the programme as a part of State policy on protection of freedom of speech and journalism. Children of both the State-employed and private journalists are considered.
This document is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of Danish Refugee Council and do not necessarily reflect the views of the USAID or the United States Government.

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In April 2017, the Parliament has amended the existing state program for affordable housing by adding a modified preferential scheme for IDPs’ participation therein. The original program, introduced in 2009, was aimed at providing affordable housing to 265 800 families by 2017. Only 3 550 families have benefited from the program so far. Despite the very low historic achievement rate, the inclusion of IDPs’ eligibility for participation in the program has created a legal framework for structural solutions to housing problems of some groups of IDPs.

### OFFICIAL NAME OF THE PROGRAM

State Target Social and Economic Program for Construction (Purchase) of Affordable Housing for the Period of 2010-2017

### LEGAL INSTRUMENTS

- Cabinet of Ministers of Ukraine (CMU) Resolution No. 1249 as of 11 November 2009
- CMU Resolution No. 140 as of 11 February 2009 On the Procedure for Providing Citizens With Affordable Housing
- CMU Resolution No. 193 as of 29 February 2012 On the Procedure for Utilization of Funds from the State Budget for Provision of State Assistance for Construction (Purchase) of Affordable Housing

### IMPLEMENTING AUTHORITY

State Specialized Financial Institution “State Fund for Support of Youth Housing Construction”

### AFFORDABLE HOUSING

is defined as housing constructed under state financial support

### CO-FUNDING MECHANISM

- 30% state, 70% applicant
- can be used only once

### TARGET POPULATION AND TARGET APARTMENTS

- citizens in need of housing conditions improvement, including:
  - young families and single young citizens (38 350 apartments)
  - military servants, rank-and-file staff and officers of internal affairs bodies, etc. (27 500 apartments)
  - judges of appellate and first instance courts (920 apartments)
  - persons with disabilities (2 480 apartments)
  - scientists and employees of the National Academy of Sciences (4 047 apartments)
  - civil servants (55 637 apartments)
  - scientific and pedagogical/pedagogical employees (21 743 apartments)
  - citizens in need of housing conditions improvement and those who are not entitled or have forfeited their right to social housing (111 723 apartments)
  - young professionals of state space enterprises (3 400 apartments)

### TARGETED RESULTS VS. ACTUAL ACHIEVEMENTS

- provision of housing to 265 800 families by construction of 16,6 mln m² of total areas - Targeted
- during 2010-2014, assistance under the program has been provided to a total of 3 550 families
- since 2015 no new housing has been provided
**REQUIRED BUDGET**

88 500 million UAH (figure rounded up). Expected sources of funding:

- **State budget**: 23 235 mln UAH
- **Local budgets**: 5 443 mln UAH
- **Other sources**: 59 822 mln UAH

**HOUSING STANDARD**

- 21 m² per family member + 10.5 m² per family
- Costs for construction of 1 m² in Kyiv, Kharkiv, Dnipro, Lviv and Odesa should be within the limits of average construction costs established by the Ministry of Regional Development and Construction of Ukraine multiplied by 1.75; for cities that are regional centers and those with the population over 300,000 – by 1.5; for cities with population in-between 100,000 – 300,000 – by 1.25; for all other cities – not more than average construction costs in respective region
- According to the rates fixed by the Ministry of Regional Development as of 1 July 2017, the average construction costs per 1 m² is 10,312 UAH
- Price of extra square meters and price difference per square meter (as between the fixed and actual one) has to be covered by the applicant

**ELIGIBILITY**

- To be listed in the housing queue for improvement of living conditions
- To own less than 13.65 m² of housing area per person
- To have an average monthly total household income (salary, pension, social assistance, stipend, dividends, accrued interest, etc.) divided by number of household members less than five-fold average monthly salary in respective region (e.g., average monthly salary in Ukraine as of July 2017 is 7,339 UAH)

**2017 MODIFICATION OF THE PROGRAM: 50/50 CO-FUNDING MODE AND INCLUSION OF IDPS**

- Introduced in April 2017
- Recognized “ATO” combatants, disabled war veterans, their families, and IDPs as preferential target group
- IDPs are exempted from the requirement to be registered in the housing queue, but should have no housing other than that located in temporarily occupied territory, non-government controlled area and along the contact line
- 50% of housing cost is covered by the state, with another one-off 50% payment made by the applicant
- If a one-time payment is too heavy for an individual, he/she may opt for a mortgage loan in the amount of the above 50% to be paid in a 30 years term with a 7% annual interest rate
- Interest rate for loans provided by the State Specialized Financial Institution has been increased from 3% to 7% compared to the original program
- If the loan is provided by an authorized banks, interest rate will equal to discount rate of the National Bank of Ukraine (12.5% as of 07.09.2017) + 2%
- The procedure for provision of affordable housing under the 50/50 modality is the same as in the 30/70 one
- IDPs whose housing is located in government-controlled area and was destroyed during the “ATO” should provide the act certifying technical state of the housing

**CHALLENGES OF THE MODIFIED PROGRAM**

- Non-commitment of funding for the program, both the original and the modified ones
- The program requires extension as it is supposed to expire in 2017