



DRC-DDG LEGAL ALERT: Issue 52 May 2020

1. COVID-19 Legislative Measures Update: 31 May 2020

Background: An array of legislative measures have been introduced since March 2020 to respond to the outbreak of the COVID-19 ('coronavirus'). Measures relevant to the conflict-affected people and small businesses were reported in DRC-DDG [Special Legal Alert Issue No. 50](#) and [No. 51](#). Below are further measures taken since:

- Cabinet Resolutions [No. 343](#) (4 May 2020), [No. 377](#) (14 May 2020), [No. 392](#) (20 May 2020), [No. 424](#) (29 May 2020) on the prevention of COVID-19 spread;
- Laws [No. 587-IX](#) (7 May 2020), [No. 588-IX](#) (7 May 2020), [No. 591-IX](#) (13 May 2020).

Current Status of Quarantine Restrictions: As of 1 June 2020, the number of confirmed COVID-19 cases [has grown](#) to 24,012; 718 of them proved fatal, 9,690 cured. On 13 May 2020—for the first time in Ukraine—the number of cured cases exceeded the number of newly registered cases. As a result, certain restrictions have been lifted or eased. These include:

- Trade of non-food goods;
- Household (consumer) services;
- Organisation of events with up to 10 participants;
- Work of cafes in open-air format;
- Use of parks and recreational zones;
- Work of shops and trade centres (with certain restrictions);
- Work of notaries, psychologists, and advocates;
- Planned hospitalisation and medical interventions (on certain conditions);
- Independent external evaluation for admission to higher education.¹

Adaptive Quarantine: In addition to the abovementioned lifts of restrictions, the Cabinet provided a new framework on 20 May 2020 under Resolution No. 392, introducing the *Adaptive Quarantine* approach:

- The concept provides a stage-by-stage lifting of quarantine measures at regional levels based on the positive decision of respective Commissions on Technogenic and Environmental Safety and Emergency Situations;
- These commissions are provided with specific procedures and criteria for lifting restrictions, including the number of new infection cases, the amount of conducted tests, and the caseload at healthcare facilities reserved for treatment of COVID-19 patients;
- Activities that are subject to the Adaptive Quarantine approach include religious activities, hotel operations, railway and other public transports, educational activities, in-door work of cafes, and cultural events.

¹ Nation-wide standardised examination designed for school graduates' admissions to tertiary educational institutions.

Other related matters:

- Movement Through the Entry-Exit Checkpoints (EECPs): On 2 June 2020, the Presidential website [announced](#) that “*the Armed Forces Supreme Commander informed, that there are preparations to open first EECPs after 10 June 2020*” – however, no official decisions on the matter have been published;
- The Entry of Non-Nationals to Ukraine: Starting from 16 March 2020, Ukrainian state borders have been closed for non-nationals (with certain exceptions²). On 29 May 2020, the Minister of Exterior [announced](#) that the Cabinet was working on the removal of this restriction. No such announcement has been made as of the publication of the legal alert;
- Social Protection: Formally employed individuals are currently entitled to assistance for a temporary loss of working ability – if they completed the minimum year of social insurance contribution. Employees who are not eligible due to non-completion of the social insurance experience requirement, now can receive social protection at 50% rate if they undergo medical treatment, self-isolation, or obligatory observation in regards to COVID-19;
- National Economy Recovery Programme: The Cabinet [announced](#) the National Economy Recovery Programme designed to respond to the economic challenges caused by COVID-19 and the consequences of the quarantine measures. The programme is proposed for public review (no timeframe indicated).

2. Ministry for Reintegration of Temporarily Occupied Territories Proposes its New Draft Programme for Public Review

On 19 May 2020, the Ministry for Reintegration of Temporarily Occupied Territories published its new Draft Programme, available for public review until 2 June 2020. On 22 May 2020, the Ministry simultaneously sent the draft to eight parliamentary committees for consideration.

The 41-page draft is structured around 11 aims and outlines tasks, timeline, indicators, expected results, as well as the responsible state actors. Since it is not the final version, the review below only focuses on its highlights:

Programme Aims:

1. Ensuring public health – expanding healthcare provision at the EECPs;
2. Enhancing the quality of education – mostly focusing on developing non-government controlled area (NGCA) residents’ access to government controlled area (GCA)-based higher education institutions;
3. Social protection – prioritising the protection of internally displaced persons (IDPs), prisoners of the conflict, and political prisoners;
4. Cultural development and fighting info-threats – focusing on strengthening state communication with NGCA residents and combating info-aggression;
5. The economic development of the conflict-affected areas – focusing on the development of infrastructure, the creation of new jobs, and support to businesses;

² Exceptions are provided to staff of diplomatic institutions, accredited international organisations and their family members, individuals with a valid temporary/permanent residence permit, spouses and children of Ukrainian nationals, and some others. For more information, please see DRC-DDG [Special Legal Alert Issue on COVID-19](#).

6. Ensuring ecological safety;
7. Supporting the security of the state;
8. Strengthening international support to Ukraine in relation to the conflict;
9. Digital transformation – enabling electronic access to administrative services for the conflict-affected persons;
10. Effective governance – enhancing administrative service provision for NGCA residents;
11. Strengthening the rule of law – inter alia, introducing transitional justice mechanisms.

Programme Highlights:

Development of State Policies:	Housing, Land, and Property (HLP) rights:
<ul style="list-style-type: none"> • Adoption of a mid-term policy on IDP integration; • Development of mid-term state policy on national unity and social cohesion; • Development and execution of the state policy on enhanced economic development of the conflict-affected territories; • Provision of coherent transitional justice mechanisms. 	<ul style="list-style-type: none"> • Development of a Draft Law ensuring the right to compensation for housing destroyed as a result of the conflict; • Development of mechanisms for the realisation of KfW programme ‘Housing for IDPs’; • Development of mechanisms for IDP housing leasing.
Provisions on Mine Action:	Other Highlights:
<ul style="list-style-type: none"> • Amending the Mine Action Law and development of the required by-laws (procedures and frameworks); • Establishment of the National Mine Action Authority; • Launching a Mine Victims Register and securing compensation. 	<ul style="list-style-type: none"> • Ensuring NGCA residents’ access to administrative procedures for birth and death registration, as well as electronic access to administrative services; • Development of social guarantees for child-victims of the conflict; • Opening of new EECs with the NGCA and Crimea, enhancing conditions of existing EECs.

3. Central Election Committee Secures IDPs’ Right to Participate in Local Elections

Background: IDPs, by definition, do not have permanent residence registration in the hosting community. On 19 December 2019, the Parliament adopted the Electoral Code incorporating a provision that would also enable IDPs to vote at local elections. The provision’s implementation, however, was conditioned on the adoption of a procedural by-law by the Central Election Committee.

Recent Development: On 18 May 2020, the Central Election Commission issued Resolution [No. 88](#) providing the required procedure. Application for the voting station change can be submitted on the following terms:

- Available for all citizens of Ukraine – including IDPs – who hold the right to vote;
- The procedure can be used only once in 180 days;

- To be submitted within 5 days of the official start of election (not to be mixed with election day);
- Can be submitted either to the local voters’ register in paper or online with the use of qualified e-signature;
- To testify that the person belongs to the local community, a copy of one of the following documents must be included in the application:
 - An IDP certificate;
 - A housing rental contract;
 - A document that testifies that the applicant conducts business activity in the area;
 - A document testifying to residential property ownership located in the area;
 - A marriage or family certificate if the spouse/family member has the residence registration.

4. Cabinet Outlines the Scope and Powers of Ministry for Reintegration of Temporarily Occupied Territories

On 6 May 2020, the Cabinet adopted Resolution [No. 371](#) providing the framework for the Ministry for Reintegration of Temporarily Occupied Territories, restoring it as a separate ministry on 11 March 2020. The framework outlines the scope of the Ministry’s responsibility as the focal body, participant, and contributor in forming and executing the state policies:

As a Focal Body for:

- Temporary occupied territories and their residents, with the final purpose of their reintegration;
- Rebuilding Ukraine’s integrity within its internationally recognised borders;
- Promoting voluntary return of NGCA residents who have moved abroad; promoting integration of IDPs or their voluntary return [if their previous home is now within the GCA];
- Coordination of the provision of humanitarian aid;
- Peacebuilding and development of the temporary occupied territories and surrounding areas upon reintegration;
- Strengthening the informational sovereignty of Ukraine.

As a Participant Body for:

- Protection of rights and freedoms of the conflict-affected persons;
- Execution of mine action activities, including explosive ordnance risk education, victim assistance, land inspection, marking and mapping activities.

As a Contributing Body for:

- Execution of rights and freedoms of residents of Crimea, NGCA, and surrounding areas;
- Fulfillment of national, educational, and cultural needs of the indigenous people and ethnic minorities residing within the temporary occupied areas and surrounding areas – including development of their native languages;
- Fulfillment of social, economic, ecological, informational, and cultural needs of the residents of temporarily occupied territories and surrounding areas.

5. Parliament Removes Unified Social Tax ‘Double Payment’ for Individual Entrepreneurs

Background: Ukrainian regulation has separate requirements for unified social tax (UST) payment for private entrepreneurs (PEs), self-employed persons,³ and employees. Because of that, PEs who are also officially employed or who are also registered as self-employed persons fall under double UST obligation. Moreover, private entrepreneurs are obliged to pay the minimum UST rate even during periods of inactivity. As a result, micro and small businesses have little incentive to register their activities officially.

Recent Developments: On 13 May 2020, the Parliament adopted Law No. [592-IX](#) providing that PEs:

- Also registered as self-employed persons – only pay UST once;
- Also officially employed – only pay UST once;
- Are partially exempted from UST payment in inactive months (this provision does not cover entrepreneurs with a simplified tax system registration).

6. Government Extends List of Education Institutions Offering Simplified Admission Process for IDPs, Graduates from NGCA, and JFO Area

Background: Documents issued within the NGCA are generally not recognised by the Ukrainian government, including school certificates. Educational infrastructure within the contact line and ‘ATO’/JFO areas is damaged. In GCA, admission to tertiary educational institutions is based on External Independent Evaluation (EIE) – a state-run school graduate testing system. To provide access to GCA tertiary education for individuals residing within the ‘ATO’/JFO areas, contact line, NGCA, and Crimea, the Ministry of Education and Science issued Decrees [No. 560](#) and [No. 697 in 2016](#), establishing specialised ‘Donbas-Ukraine’ and ‘Crimea-Ukraine’ admission centres for certain tertiary educational institutions.

Special terms of admission under ‘Crimea-Ukraine’ and ‘Donbas-Ukraine’ admission centres:

- Ukrainian ID, EIE results, and school certificates are not required;⁴
- Applicant’s examination is held under the special admission centre, limited to exams on Ukrainian language, history, and a special subject depending on the educational institution and faculty;
- Applicants are offered full state scholarships under certain quotas; if the quota is fulfilled, the applicant should be offered a long-term preferential loan for education;
- Applicants have a preferential right to dormitory housing, free educational materials, and internet access.

Nevertheless, the number of tertiary educational institutions involved in the programme remained very limited, mostly located within the GCA parts of Luhansk and Donetsk region: 42 admission centres in 2017, 76 admission centres in 2019.

Recent Developments: On 12 May 2020, the Ministry for Reintegration of Temporarily Occupied Territories and the [Ministry of Education and Science](#) expanded the specialised admission centres network. Now, it includes 91 tertiary educational institutions within the GCA. Please find in hyperlinks a [list](#) of available tertiary educational institutions and a [list](#) of cities and villages eligible for the programme.

³ Independent professional activities include scientific; literary; artistic; educational; teaching; medical; legal (including advocacy and notarial activities; religious (missionary) work, and other practices.

⁴ Personal identification is conducted based on the birth certificate and other available documentation on case-by-case basis.

7. Parliament Ratifies Second Protocol to the Hague Convention for Protection of Cultural Property in Events of Armed Conflict

On 30 April 2020, the Parliament adopted Law No. [585-IX](#) ratifying [Second Protocol](#) to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (1999). The Protocol regulates responsibilities of the parties in terms of armed conflict regarding the protection of cultural property, and establishes corresponding liabilities. Among other, the protocol forbids or restricts:

- Acts of hostility when such acts can damage cultural property;
- Illicit export, removal, or transfer of ownership of cultural property by the occupying state;
- Archaeological excavation and the change of the cultural property's terms of use.

The Protocol also provides a procedure for providing cultural properties with the legal status of enhanced protection and regulates terms of jurisdiction, prosecution, extradition, and other cooperation of the protocol parties.

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

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