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## DRC Legal Alert Special on IDPs: Issue 101

### 1. Background information

After the escalation in conflict on 24 February 2022, the number of internally displaced persons (IDPs) in Ukraine has grown dramatically. As of December 2023, the International Organisation for Migration (IOM) reported approximately 3.7 million de facto IDPs in Ukraine<sup>1</sup>. The Government of Ukraine has adopted a wide range of by-laws aimed at the prevention, minimization and combating of the negative consequences of war. Financial assistance to IDPs (Housing Allowance) became the biggest social protection programme, with almost 2.3 million recipients in 2023. Currently, there are 4.8 million IDPs registered, with 3.5 million having been displaced since the 24<sup>th</sup> of February 2022. Approximately 1.1 million have relocated from areas currently deemed non-hostile territories, including Kyiv and Kyiv Oblast.

### 2. Recent Developments

From November 2023 to January 2024, the Government made material changes to address issues regarding the social protection of IDPs. The amendments were related to the continuation of the Housing Allowance for some vulnerable categories of IDPs, the formation of Housing Funds for temporary accommodation, and the provision of compensation for damaged and destroyed property.

### 3. Housing Allowance for IDPs

#### Legal basis:

- Law of Ukraine №1706 of 20 October 2014 “On ensuring the rights and freedoms of internally displaced persons”
- Decree №509 of 1 October 2014 “On the registration of internally displaced persons”
- Decree №332 of 20 March 2022 “Some issues of payment of accommodation allowance to internally displaced persons”
- Decree №709 of 11 July 2023 “Some issues of support for internally displaced persons”
- Decree №1226 of 21 November 2023 “Amendments to certain Decrees of the Cabinet on the adjustment of some issues on IDPs”
- Decree №94 of 26 January 2024 “Some issues of social support for internally displaced persons and other vulnerable categories”
- Decree №331 of 22 March 2024 “Some issues of adoption and placement of orphans, children deprived of parental care, and social protection of children left without parental care”

#### Eligibility criteria

As a rule, housing allowance is granted to IDPs who have moved (relocated) from areas experiencing active hostilities or NGCA after 1 January 2022.

#### General terms and amount of housing assistance

The Housing Allowance for IDPs is granted for six months to a family, and will be paid monthly in the following amount:

- for persons with disabilities and children – UAH 3000;
- for other persons – UAH 2000.

<sup>1</sup> Link: [Ukraine — Internal Displacement Report — General Population Survey Round 15 \(November – December 2023\) | Displacement Tracking Matrix \(iom.int\)](https://www.iom.int/en/ukraine-internal-displacement-report-general-population-survey-round-15-november-december-2023)

**Leadtime**

The assistance is granted by the social protection authority within 15 working days from the date of receipt of the application, including those submitted electronically through the Diia Portal, particularly using the Diia mobile application.

**Return of overpaid benefits<sup>2</sup>**

Recipients and banks return the funds of the overpaid benefits to the non-budget accounts of the social protection authorities opened under the Treasury.

**Right to appeal**

The decision of the social protection authority can be appealed to the National Social Service or in court.

**Data sharing**

Information on the personal data of internally displaced persons may be provided to UN agencies and the International Committee of the Red Cross with the consent of the applicant or his/her legal representative for the provision of assistance.

**Difficult life circumstance**

If an IDP after the termination of the assistance remains in a difficult life circumstance, such a person may apply for assistance to low-income families or relevant social services. For this purpose, **the Cabinet on 26 January 2024 adopted Decree №94 amending the approach to the calculation of the average monthly income** for IDPs and returnees from abroad so that they got the possibility to apply for assistance to low-income families.

**Housing in a government-controlled area (GCA) as a criterion for termination of payment.** This is applicable for the cases of restoration of a dwelling, or provision of housing for permanent or temporary residence, at the expense of state or local budgets or funds of charitable or international organisations.

**UAH 100,000 savings criterion does not apply** to IDPs when one of the family members receives annual or one-time state financial assistance as a person who was deprived of personal liberty because of war.

***The assistance does not apply to persons on NGCA.***

*Timeline of the principal amendments in the provision of Housing Allowance for IDPs*



<sup>2</sup> Initially such number of benefits were considered non-refundable according to [Art. 1215](#) of the Civil Code: Unjustifiably acquired funds shall not be refunded including wages and payments equivalent to them, pensions, allowances, scholarships, compensation for damage caused by injury, other health damage or death, alimony and other monetary amounts provided to an individual as a means of subsistence, if their payment was made by an individual or legal entity voluntarily, in the absence of an accounting error on their part and bad faith on the part of the acquirer.

<b>Principal amendments</b>	<b>Before 1 March 2024</b>	<b>After 1 March 2024</b>
<b>First 6-month period of payments</b>	<p>The Housing Allowance is not granted<sup>3</sup> if, within three months before applying, an IDP/household:</p> <ul style="list-style-type: none"> <li>• purchased a vehicle that has been in operation for less than five years;</li> <li>• purchased housing, securities, and other financial instruments or made transactions for the purchase of non-cash and/or cash foreign currency for an amount exceeding UAH 100,000;</li> <li>• has funds in the deposit bank account exceeding UAH 100,000;</li> <li>• has housing in government-controlled area (GCA);</li> <li>• purchased an apartment (house) with the funds allocated for the payment of compensation;</li> <li>• was and after displacement is on full state support in an orphanage, boarding school, etc;</li> <li>• is serving a sentence in a penitentiary.</li> </ul>	
<b>Second 6-month period of payments</b>	<p>No additional criteria for the second 6-month period were applied. All the IDPs receiving Housing Allowance for 6 months automatically continued to receive assistance.</p>	<p><b>Automatic extension for the second 6-month period</b> is envisaged for specified categories of IDPs who are not able to work, i.e.:</p> <ul style="list-style-type: none"> <li>• pensioners whose pension amount as of 1 January 2024 does not exceed UAH 9,444 (four subsistence minimums for persons who have lost their ability to work);</li> <li>• persons with disabilities of group I or II, children with disabilities under the age of 18, children with rare diseases;</li> <li>• orphans and children deprived of parental care, persons under the age of 23, as well as foster parents and adoptive parents.</li> </ul> <p><b>Extension of the assistance for the second 6-month period is possible upon the application for certain vulnerable categories of IDPs, if:</b></p> <ul style="list-style-type: none"> <li>• they moved (relocated) from January 1, 2022, from NGCA; and</li> <li>• the average monthly total income per benefit recipient does not exceed four amounts of the subsistence minimum for persons who have lost their ability to work.</li> <li>• they have a child under 14 or 3/more children under 18;</li> <li>• they have a family member who is registered as unemployed;</li> <li>• they have a family member who cares for a person with a group I disability, a child with a disability under the age of 18, a child with a rare disease, etc.</li> </ul> <p>Assistance upon application is granted individually to the following categories:</p> <ul style="list-style-type: none"> <li>• unaccompanied minors;</li> <li>• pregnant women (starting from the 30th week of pregnancy);</li> <li>• person who is not entitled to a pension if the average monthly total income per recipient<sup>4</sup> does not exceed four amounts of the subsistence minimum for persons who have lost their ability to work<sup>5</sup>.</li> </ul>

**Recent developments:**

**On 22 March 2024, the Cabinet revised<sup>6</sup> the Decree №94** of 26 January 2024 and extended the list of the most vulnerable groups of IDPs who are entitled to the extension of assistance:

- Automatic extension:
  - Persons with severe forms of the disease who have not been diagnosed with a disability;

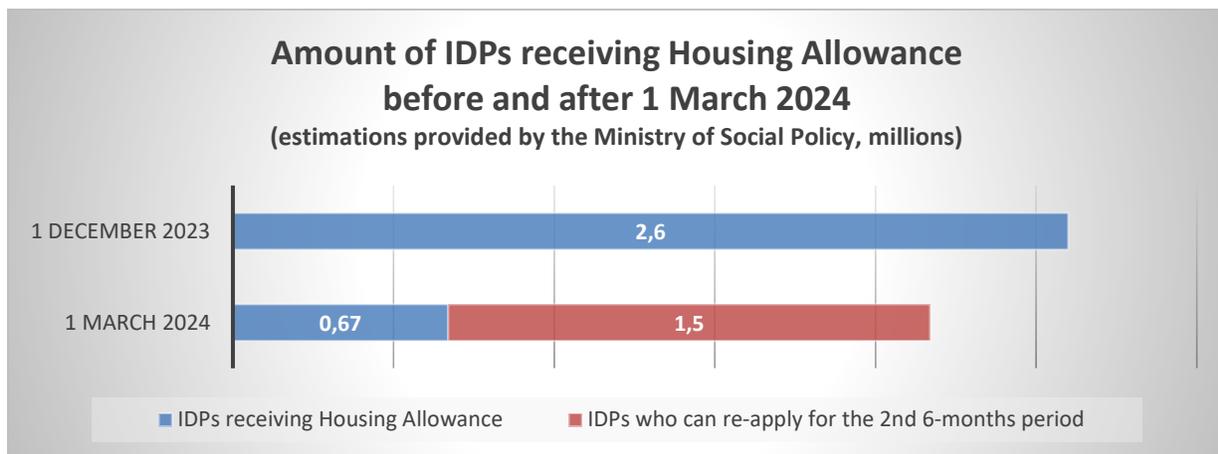
<sup>3</sup> Decree №709 of 11 July 2023 “Some issues of support for internally displaced persons”

<sup>4</sup> The three-month period is considered.

<sup>5</sup> UAH 2,361 as of 1 January 2024

<sup>6</sup> [The Decree №331 of 22 March 2024](#)

- Children placed in the family of a foster carer; foster carers; children temporarily placed in the family of relatives, friends, or family-type children's home.
- Extension upon the application (if the average monthly total income per recipient in the family is less than UAH 9,444):
  - Persons caring for a child under 3 years of age or a child in need of care under 6 years of age;
  - Families with children under 18 and/or under 23 (for the full-time (or dual) enrolled students);
  - Persons providing social services on a non-professional basis;
  - Students under the age of 23 (upon individual application);
  - Persons with disabilities of the III group;
  - Families of pensioners.
  - Persons who reached the age of 55.



#### **4. Temporary Housing**

##### **Legal basis:**

- Law of Ukraine №1706 of 20 October 2014 “On ensuring the rights and freedoms of internally displaced persons”
- Decree №422 of 31 March 2004 “On approval of the procedure for formation of housing funds for temporary accommodation and the procedure for provision and use of residential premises from the housing funds for temporary residence”
- Decree №495 of 29 April 2022 “Some measures for the formation of housing funds intended for temporary residence of IDPs”
- Law №3446-IX “On amendments to the law of Ukraine "On ensuring the rights and freedoms of internally displaced persons" on certain issues of providing internally displaced persons with housing for temporary residence”
- Decree №7 of 5 January 2024 “On amendments to the procedure for formation of housing funds for temporary accommodation, accounting and provision of such housing for temporary accommodation of internally displaced persons”

Under the current legislation, temporary housing<sup>7</sup> is defined as a dwelling from the housing stock for temporary residence. Initially, the temporary housing was aimed at the provision of shelter for vulnerable categories of people. In

<sup>7</sup> Temporary housing shall not be confused with Collective centres. Collective centres are existing communal buildings (schools, hotels, religious centres, hospitals, etc.), which are used to accommodate persons who were displaced by conflict or natural disaster for several days or weeks.

2014, IDPs were included in the list of persons who may count on the provision of temporary housing. With regards to IDPs, temporary housing is provided:

- for IDPs and their family members at the place of actual residence/stay;
- free of charge for use, with the need to pay for housing and communal and other services at the approved tariffs;
- in the amount of at least 6 sq. m per person;
- for a period of up to one year with the possibility of extension for the next term if there are no changes in the status of IDPs and family members and if they have not acquired another place of residence;
- provided that the IDP and any of the family members do not own a residential premise (part of a residential premise) suitable for living located on the controlled territory OR if the residential premises were destroyed and became unfit for living as a result of the war (as confirmed by the relevant act of inspection of the technical condition of the residential premises);
- without the right to privatise, exchange and divide such housing, use it for business activities, rent it out or move in other persons not specified in the use agreement.

While housing funds for temporary residence of IDPs are formed by local self-government (LSG) bodies, in particular, by building new housing, reconstructing existing houses and dormitories, purchasing housing, etc. however, there was no provision that directly imposes an obligation for the formation of Housing Funds for temporary housing for IDPs. According to the latest data provided by Oblasts` Military Administrations, out of 23 oblasts (Luhansk Oblast is not hosting IDPs), 5 oblasts do not have premises in their Housing Funds, 1 oblast does not have available premises, 8 oblasts have less than 20 premises, 5 oblasts provide IDPs with beds (instead of temporary housing).<sup>8</sup>

**Technical access barriers were minimized**

On 8 November 2023, the Parliament adopted [Law №3446-IX](#), resolving some of the issues on the provision of temporary housing for IDPs. According to the amendments, LSGs become authorised to form Housing Funds for temporary residence of IDPs.

The Law also granted the possibility to some categories of IDPs to obtain the right to free temporary accommodation (subject to payment of utility bills by the person) without any time limit during the period of Martial Law and within six months after its termination or cancellation to further improve accessibility of temporary housing for IDPs.

**Priority principle**

New priority rules were adopted on 5 January 2024 by the [Decree №7](#).

While earlier priority scores received only IDPs that were generally considered as vulnerable categories (large families, pregnant women, elderlies, etc.), amendments included additional number of points that an internally displaced person/family may receive.

Category	Points
Families of servicemen from among internally displaced persons	50
IDPs who have experienced repeated internal displacement due to war	
IDPs, from among the residents of the respective territorial community, whose housing was destroyed or became unfit for living as a result of war	27

**Exclusions**

A housing from the Fund is not provided if an IDP or any of his/her family members owns a housing/part of a housing in GCA suitable for living, with a size of at least 13.65 square metres per person.

<sup>8</sup> Decision of the Temporary Special Commission of the Verkhovna Rada of Ukraine on the Protection of Property and Non-property Rights of IDPs of 09.02.2024 "On the state of implementation by regional, Kyiv city military (state) administrations, local self-government bodies the Operational Action Plan for the implementation in 2023-2025 of the State Policy Strategy on Internal Displacement for the period up to 2025, approved by the Order of the Cabinet of Ministers of Ukraine №312-p of 7 April 2023"

**Refusals**

The absence of a Fund at the time of their application cannot be a ground for refusing to register internally displaced persons as citizens in need of housing for temporary residence.

**5. Compensation for Damaged and Destroyed Property**

Legal basis:
<ul style="list-style-type: none"> <li>• Law of Ukraine №2923-IX of 23 February 2023, “On compensation for damaged and destroyed housing”<sup>9</sup></li> <li>• Decree №381 of 21 April 2023 “On the Procedure of compensation for the restoration of certain categories of housing damaged as a result of war”<sup>10</sup></li> <li>• Decree №600 of 30 May 2023 “On the Procedure for compensating destroyed housing”<sup>11</sup></li> <li>• Decree №39 of 16 January 2024 “On amendments to certain decrees of the cabinet regarding the regulation of relations related to the provision of compensation for housing destroyed and damaged as a result of war”</li> </ul>

**Citizenship as an eligibility criterion**

As a rule, the right to compensation for damaged and destroyed property is limited to citizens of Ukraine. Foreigners and stateless persons, as well as legal entities are currently excluded.

**Repair peculiarities**

Initially, the compensation for repair was provided only for works and construction products for which the applicant did not receive monetary or material assistance for repair works from public or international actors, including charitable organisations, local governments, enterprises, institutions, and other non-government organisations.

On 5 October 2023, the Verkhovna Rada approved [Law №3410-IX](#), eliminating the discriminatory provisions. Accordingly, monetary compensation is provided for construction items that were purchased and/or repair works that were performed at the expense of the compensation applicant. The newly amended provisions came into force on 1 January 2024.<sup>12</sup>

If the recipient of compensation has carried out repair work, the commission determines the scope of such work and decides on the compensation.

**Right to appeal**

Judicial procedure is envisaged to appeal against the decisions, actions, omissions of state bodies, local self-government bodies, their officials, and other public service providers.

	Current situation	Concerns
<b>Compensation for damage of the apartment in multistore building</b>	<p>The compensation for damaged housing in the multistore building is provided only if:</p> <ul style="list-style-type: none"> <li>• the common areas are not damaged, or</li> <li>• the damage to the common areas was repaired as of the date of application.</li> </ul> <p><b>Compensation for the damage to the common areas</b></p> <p>The compensation for damaged common areas of the apartment building can be received by:</p>	<i>No compensation provided when the common area is damaged unless repairment is done.</i>

<sup>9</sup> For more information, please, see [DRC Legal Alert Issue 91](#)  
<sup>10</sup> For more information, please, see [DRC Legal Alert Issue 93](#)  
<sup>11</sup> For more information, please, see [DRC Legal Alert Issue 95](#)  
<sup>12</sup> For more information, please, see [DRC Legal Alert Issue 100](#)

	<ul style="list-style-type: none"> <li>• the associations of co-owners of apartment buildings,</li> <li>• managers of apartment buildings,</li> <li>• housing construction (housing) cooperatives that maintain the respective buildings,</li> <li>• persons authorised by co-owners of apartment buildings<sup>13</sup>.</li> </ul>	
<b>Deduplication issues</b>	If the applicant has received monetary or material assistance for the repair work from Ukrainian or international organisations, including charities, local governments, enterprises, institutions and organisations, compensation from the State shall not be provided.	<i>Compensation provided by one party only (State or INGO) might be not enough to cover all the expenditures to repair destructions.</i>
<b>Amount of compensation for damaged property provided by State</b>	<p>Due to budgetary constraints, the maximum amount of compensation has been changed three times during 2023.</p> <p>Initially, Decree №381 established the maximum amount of compensation of UAH 500,000.</p> <p>The <a href="#">Decree №478</a><sup>14</sup> set the maximum amount of such compensation at UAH 200,000. And the <a href="#">Decree №858</a> established different maximum amounts of compensation depending on the category of repair and the object, i.e.:</p> <ul style="list-style-type: none"> <li>• category A repairs – the calculated amount of compensation does not exceed UAH 200,000.</li> <li>• category B repairs – the calculated amount of compensation is: <ul style="list-style-type: none"> <li>○ from UAH 200,000 to UAH 350,000 – for apartments in an apartment building (if the common areas are not damaged); or</li> <li>○ from UAH 200,000 to UAH 500,000 – for single-family houses<sup>15</sup>.</li> </ul> </li> </ul>	<i>Persons who have already received compensation for damaged housing within the amount of UAH 200,000 cannot claim additional compensation.</i>
<b>Documentary issues</b>	<p>The decision-making commission may suspend the consideration of the application if:</p> <ul style="list-style-type: none"> <li>○ incomplete information and/or documents are submitted;</li> <li>○ there is no consent of the co-owner(s) of the housing to receive compensation;</li> <li>○ the commission cannot inspect due to the physical absence of the owner.</li> </ul>	<i>The procedure of renovation of the documents becomes an additional financial burden for persons who lost housing. Payment for real estate assessment, notarial acts, administrative fees for state registration of property rights to real estate and their encumbrances, other mandatory taxes, fees and charges cannot be paid out of the compensation provided.</i>

<sup>13</sup> In accordance with the Law of Ukraine "On Peculiarities of Exercising Ownership in an Apartment Building"

<sup>14</sup> Please, see [DRC Legal Alert, Issue 94](#)

<sup>15</sup> Including detached manor-type houses, blocked houses with separate apartments with their own entrance from the street, cottages and single-family houses of increased comfort, manor-type houses, summer cottages and garden houses.

		<p><i>There is no existing programmes on compensation of the administrative fees for the renovation of the documents if they were lost due to war.</i></p>
<p><b>Limitation of the compensated area</b></p>	<p>On 16 January 2024, the Cabinet introduced <a href="#">Decree №39</a>, establishing limits to the area of the destroyed housing that may be subject to compensation:</p> <ul style="list-style-type: none"> <li>• 150 square metres for an apartment, and</li> <li>• 200 square metres for a manor house, garden or country house.</li> </ul>	<p><i>If the housing area is bigger than the one compensated under this legislation, the owner will be able to apply for compensation from reparations (or other sources). Currently there is no such a programme available, and that additional area remains uncovered by compensation.</i></p>

### **6. Protection of Property and Non-property Rights of IDPs**

On 21 December 2023, the Parliament adopted [Resolution № 3535-IX](#) establishing a Temporary Special Commission on the Protection of Property and Non-property Rights of IDPs and Other War-affected People (the Commission).

Among others, the Commission`s actions are aimed at:

- Analysis of the implementation of the legislation on the protection of property and non-property rights of IDPs and other war-affected people in the areas, including but not limited to:
  - monetary and non-monetary compensations for property damaged or destroyed by war in Ukraine;
  - other damage caused by the conflict in Ukraine.
- Preparation and preliminary consideration of draft laws and other acts of the Verkhovna Rada to protect the rights of IDPs and other war-affected people to:
  - provide them with housing;
  - improve the mechanisms of soft loans and mortgages for the purchase of land or housing;
  - provide compensations to IDPs and other war-affected persons.

The Commission comprises 15 Members of the Parliament (MPs), including the Chairman of the Commission and will be effective for one year from the date of its formation.

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