

ANALYSIS OF THE DRAFT LAW “ON HUMANITARIAN AID IN CRISIS SITUATION”

Definitions. *Crisis situation* means a serious disruption of the functioning society, caused by natural disaster or human factor, which led or may lead to casualties, pose a threat to environment and/or public health, including but not limited to emergency situation.

Crisis period means a period of existence of crisis situation.

Correlation with the current Law On Humanitarian Aid. The proposed draft law will regulate humanitarian aid provision only during the crisis period and at the territory which is in crisis situation.

Authorities responsible for countering crisis situations

Central authority on humanitarian aid in crisis situation (CAHA) - coordinates provision of humanitarian aid in crisis situations; its activities are coordinated by vice prime minister of Ukraine who is responsible for implementation of state regional policy.

Permanent Working Group is being formed under the CAHA which *includes deputy heads of the following authorities and organizations*: National Security and Defence Council, State Security Service, Ministry of Health, Ministry of Infrastructure, Ministry of Justice, Ministry of Defence, Ministry of Social Policy, Ministry of foreign affairs, Ministry of Education, Ministry of Ecology, State Fiscal Service, State Emergency Service, State Migration Service, State Border Service, State Veterinary Service and Ukrainian Red Cross Society.

Powers of CAHA:

- a) forms and implements state policy for humanitarian aid in crisis situations;
- b) submits recommendations to the Government on announcement of crisis situation and its termination;
- c) analyzes and checks adequacy of internal resources of Ukraine to terminate and overcome consequences of crisis situation;
- d) applies to humanitarian organizations on provision of humanitarian aid in crisis situations;
- e) coordinates humanitarian aid distribution provided by state authorities and humanitarian organizations in crisis situations;
- f) monitors activities of humanitarian organizations, volume of humanitarian aid and number of humanitarian staff including international medical teams;
- g) monitors adherence to humanitarian principles;
- h) initiates prosecution of persons in cases of violation of legislation on humanitarian aid in crisis situations
- i) conducts temporary accreditation of national and international humanitarian organizations;
- j) sets up, maintains and makes public
 - Registry of temporarily accredited humanitarian organizations,
 - Registry of blacklisted humanitarian organizations,

- Registry of international humanitarian staff allowed visa-free entrance and residence in Ukraine during crisis period

k) submits to State Border Service information on humanitarian staff allowed visa-free entrance and residence in Ukraine during the crisis period.

Local response teams (LRT) are being formed by local governments within 1 day at the territory affected by situation which may be deemed as crisis situation. LRTs are managed by deputy heads of local governments and do not have the status of public state authorities. Any humanitarian organization providing response at the affected territory could be included to local response teams upon request.

LRTs should: a) conduct needs assessment for humanitarian response; b) coordinate response provided by humanitarian organizations; c) monitor designated use of humanitarian aid and submit reports on designated use to CAHA; d) document facts of receiving of humanitarian aid.

Announcement of crisis period

a) Local governments inform CAHA on occurrence of situation which may be deemed as crisis situation and assess the adequacy of local resources necessary for countering the crisis situation. Within 1 day upon occurrence of crisis situation local government also starts forming LRTs.

b) CAHA shall collect and assess information on events which may be deemed as crisis situation within 1 day. If central authority decides that local and state resources for countering the crisis situation are inadequate, it submits the recommendation to the Government on announcement of crisis period.

c) The Government decides on announcement of crisis period within 2 days upon receiving the recommendation, however, the *decision on announcement of crisis period caused by armed conflict* should be approved by National Security and Defence Council.

Accreditation

General requirements. Inter/national humanitarian organization should submit the following documents to CAHA: a) application in the prescribed form b) for international NGO: certified copy of the document which confirms registration of foreign NGO. Ukrainian translation of such document should be signed by NGO's authorized person and sealed c) for national NGO - certificate from Unified Register of Legal Entities and confirmation that NGO is registered at the Registry of Non-Profit Organizations.

Accreditation period. CAHA should either accredit NGO within 24 hours upon submission of abovementioned documents or deny the accreditation. Temporarily accreditation is valid during crisis period and terminates the next day after announcement of its termination. Humanitarian organization and its staff should leave the territory of Ukraine within 20-day period upon termination of the accreditation.

Pharmaceuticals/Food items. If humanitarian organization wants to provide humanitarian aid as pharmaceuticals and/or food items donor it should also submit to CAHA documents confirming that it has internal systems of quality control over pharmaceuticals and/or food items; Ukrainian translation of such document should be signed by NGO's authorized person and sealed. CAHA adopts the lists of internal quality control systems that serve as ground for temporarily accreditation.

Grounds for denial of accreditation. CAHA denies of accreditation in the following cases: a) submission of incomplete list of the documents; b) submission of invalid information c) humanitarian organization is included to the Registry of blacklisted humanitarian organizations d) if humanitarian organization - a donor of pharmaceuticals and/or food items did not provide

respective confirmation that it has internal systems of quality control over pharmaceuticals and/or food items.

Registry. Within 1 day upon accrediting the first humanitarian organization CAHA makes public the Registry of temporarily accredited humanitarian organizations on its website.

If humanitarian organization is included to the abovementioned Registry, it and its staff are allowed to privileges prescribed by the draft law.

Needs assessment. Within 24 hours upon announcement of crisis period CAHA assesses and makes public via website the List of Humanitarian Aid and Experts to overcome consequences of crisis situation (**Humanitarian Aid List**). This List is updated daily in Ukrainian and English.

Application. Humanitarian organization submits to CAHA an application that should include list of humanitarian aid/staff which humanitarian organization undertakes to provide within limits of announced Humanitarian Aid List.

Volume. The volume of humanitarian aid being provided cannot exceed the volume indicated in the abovementioned application.

Responsibility. Humanitarian organization assumes all responsibility for quality and safety of humanitarian aid.

Approval and grounds for rejection. CAHA should approve the application within 24 hours unless it finds grounds to reject it.

CAHA rejects the approval of application if:

- humanitarian to be provided under the application is not in Humanitarian Aid List
- volume of humanitarian aid mentioned in application exceeds the volume indicated in Humanitarian Aid List
- applications of other humanitarian organizations submitted previously, fully cover needs specified in submitted application

Upon approval, CAHA makes public the application on its website (thus controlling authorities are aware of it) and submits an electronic copy of application to State Fiscal Service.

Tax and customs exemption. Humanitarian aid/staff salaries provided/paid according to this draft law is exempted from all tax and customs duties (including personal income tax exemption for beneficiaries), if State Fiscal Service has received an electronic copy of approved application for humanitarian aid provision.

Currency control. No license required from National Bank of Ukraine when foreign currency funds are accrued to bank accounts of humanitarian organization.

State border crossing. State Border Service should assist humanitarian aid and staff to cross state border as quickly as possible. Humanitarian cargos are exempted from any type of examination.

Nostrification of diplomas of humanitarian staff is not required. Such documents should be translated to Ukrainian and duly certified by authorized person of humanitarian organization.

Unimpeded access to the territory of crisis situation should be provided subject to restrictions to ensure safety for humanitarian staff.

Supervision and responsibility. CAHA and enforcement authorities carry out state monitoring over compliance of legislation. Article 34 of the draft-law stipulates the list of

actions that constitute violation of legislation on provision of humanitarian aid in crisis situations.

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