



## LEGAL ALERT

June 2016

In addition to the Special Legal Alert sent out on 13<sup>th</sup> June, we kindly bring to your attention the following recent developments.

### **1. The Constitutional Court has ruled on limiting discretion of the Departments of Social Policy in their decisions on denying child benefits**

The Law on State Aid to Families with Children (the Law) of 21 November 2011 stipulates that in Ukraine every parent/custodian of a child is entitled to financial support from the state. Such support may come in form of various child benefit payments, including maternity benefits, adoption benefits and lonely parent benefits (“child benefits”).

The Ombudsperson has filed claim to the Constitutional Court of Ukraine challenging the Law of Ukraine On State Aid to Families with Children, namely the list of reasons for termination of child benefit payments. The provision in question provided that the benefits for the child may be terminated/cancelled in a number of cases, including revoking parental rights, placing the child under full state custody and care, termination of custody, misuse of costs and “*for other reasons*”.

Namely the last cause, i.e. “*for other reasons*” was put before the Court, citing lack of system of check and balances for the DoSP who decided on such other reasons for terminating child benefit payments.

The Constitutional Court ruled the cited reason to be unconstitutional, as it undermines the principles of legal certainty, rule of law and allows unchecked discretion of an executive authority which may lead to violation of rights, stipulated by the Law.

#### **1.1. Implications:**

- Until this moment the DoSPs used their discretionary powers and the debated clause in the Law to terminate child benefit payments citing lack of IDP registration and residence in NGCA for the conflict affected parents and guardians.
- The decision of the Constitutional Court clearly says that no other reason, save for those strictly prescribed in the Law may serve for termination of child benefit payments.

Text of the decision of 08 June 2016 may be found here <http://zakon5.rada.gov.ua/laws/show/v003p710-16>

### **2. Regional offices of free secondary legal aid to become front-end offices for registration of community-based organizations and private entrepreneurs**

On The Ministry of Justice launched a pilot project on 17<sup>th</sup> June 2016, allowing the regional offices of free legal aid to collect documents for registration of community-based organizations and private entrepreneurs and hand out respective certificates on registration received from the registration authorities.

This may be for the benefit of the IDPs who may file registration documents through the offices of free legal aid that are situated nearby. They may also benefit from the legal advice while filling out the paper forms for such registration.

Texts of the Decrees in question may be found here <https://minjust.gov.ua/ua/news/48407> and <http://zakon2.rada.gov.ua/laws/show/z0200-16>

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