

Legal Update – 31 March 2015

LEGAL STATUS OF THE AUTONOMOUS REPUBLIC OF CRIMEA (“Crimea AR”): Overview of the Key Legislation

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Key Legislation applicable to Crimea AR

- Law of Ukraine **"On Securing the Citizens' Rights and Freedoms and Legal Regime in the Temporarily Occupied Territory of Ukraine"** dated 15 April 2014 No. 1207-VII.
- Law of Ukraine **"On Creating "Crimea" Free Economic Zone and the Specifics of Carrying Out Economic Activities in the Temporarily Occupied Territory of Ukraine"** dated 12.08.2014 No. 1636-VII.

These laws amend various other laws of Ukraine, in particular the Tax, Customs and Criminal Codes, the Law "On Freedom of Movement and Free Choice of Residence in Ukraine" and the Law "On Legal Status of Foreigners and Stateless Persons".

- Law of Ukraine No. 1706-VII **"Securing Internally Displaced Persons' Rights and Freedoms"** was adopted on 20 October 2014 to protect the rights of the persons who were forced to leave the occupied (or the armed conflict) territory.

Pursuant to the above laws, the following regulations were adopted:

- Cabinet of Ministers of Ukraine Resolution No. 226 dated 2 July 2014 **"On Aspects of the State Registration of Property Rights to the Real Estate Located in the Temporarily Occupied Territory"** (according to which rights to the real estate located in Crimea AR are registered by the relevant authorities in charge of the State registration of property rights in Kherson and Zaporizhzhia oblasts").

Disclaimer

The content of this Legal Alert is not legal advice, but a general informational summary of the law. Resource to qualified legal counsel is always required for legal advice. Failure to make timely inquiries of legal counsel may cause important legal deadlines to be missed.

- Cabinet of Ministers of Ukraine Resolution No. 541 dated 16 October 2014 "**Procedure for Terminating Business and Independent Professional Activities by the Persons Who Moved from the Temporarily Occupied Territory by Their Own Decision**" (the persons who moved from the temporarily occupied territory terminate business and independent professional activities at places of their residence).
- NBU Resolution No. 699 dated 03.11.2014 "**On Applying Selected Rules of the Currency Regulations During Temporary Occupation Regime on the territory of the of "Crimea" Free Economic Zone**".

1. Key provisions of the Law "On Securing the Citizens' Rights and Freedoms and Legal Regime in the Temporarily Occupied Territory of Ukraine"

This Law defines the territories listed below **as being temporarily occupied by the Russian Federation**, which remain the integral part of Ukraine.

- the Crimea AR and Sevastopol, these territories' internal waters;
 - internal sea waters, territorial sea around the Crimean peninsula, the territory of the exclusive (maritime) economic zone along the Crimea coast and the adjacent continental shelf;
 - air space over these territories,
- The Law stipulates the status of such territories, and establishes special legal regime for the operations of the authorities, enterprises, institutions and organizations in these territories.
 - Any bodies, officials and officers in the temporarily occupied territory and their activities will be illegal, if the bodies/persons are created, elected or appointed **contrary to the law of Ukraine**. Accordingly, **the acts** issued by such bodies/persons **will be null and void**.
 - The Law states that compulsory automatic acquirement of the Russian Federation citizenship by the citizens of Ukraine, who live in the temporarily occupied territory, is not accepted by Ukraine **nor is a ground for loss of Ukrainian citizenship**.
 - Ukrainian citizens may enter/leave the territory the Crimea AR on the basis of **Ukrainian passports. Foreigners and stateless persons can enter and leave the occupied territory under special authorization documents**.
 - **No all-Ukrainian elections or referenda can be held** in the occupied territory. However, the Ukrainian citizens who live in Crimea AR will be able to vote in other oblasts of Ukraine.
 - The Law **prohibits selling or buying real estate under the Russian Federation laws**. Real estate rights assumed in accordance with the legislation of Ukraine will be preserved by the owners. Special rules are established for

exercising the right to inherit the property located in the Crimea AR, or for the heirs who live in the Crimea AR.

- The **Ukrainian citizens who live in the temporarily occupied territory** shall exercise employment rights, receive pensions, obligatory State unemployment insurance, temporary disability, labor accident and an occupational disease disability and receive social services in accordance with the legislation of Ukraine.
- Pensions will be paid to the Ukrainian citizens, who live in the temporarily occupied territory **and do not receive pensions/other social payments from the Russian Federation authorized bodies**, in compliance with the procedure specified by the Cabinet of Ministers of Ukraine.
- Cases in progress, pending at the courts located in Crimea AR and Sevastopol, **are to be transferred to the courts in accordance with the jurisdiction established by this Law (to the courts in Kiev).**

2. Key provisions of the Law "On Creating "Crimea" Free Economic Zone and the Specifics of Carrying Out Economic Activities in the Temporarily Occupied Territory of Ukraine"

- "Crimea" free economic zone (FEZ) is set up in **Crimea AR and Sevastopol** for **10 full calendar years** from the date of entry into force of this Law.
- A special legal regime of economic activities for physical persons and legal entities is in effect in the "Crimea" FEZ, including a special procedure for applying regulations, tax and customs laws of Ukraine, and a special regime of internal/external migration of physical persons.
- A **free customs zone** is created in the "Crimea" FEZ, being also a commercial, services and industrial zone.
- Customs formalities in connection with movements of goods, commercial vehicles and persons across the administrative border of the "Crimea" FEZ will be performed in customs control areas **in the manner applicable for movements through the custom territory of Ukraine.**
- Any wire payments from the "Crimea" FEZ to other territories of Ukraine or from the other territories of Ukraine to the "Crimea" FEZ must be made exclusively in Hryvnias or a hard currency.
- **National taxes and charges stipulated by the Tax Code of Ukraine and the obligatory State pension insurance fee are not levied** in the "Crimea" FEZ.
- Physical persons and legal entities with tax address in the "Crimea" FEZ **are treated, for tax purposes, as non-residents.**
- Physical persons with tax address in other territories of Ukraine **must declare residential real estate items they own in the "Crimea" FEZ** in order:

- a) to calculate a general basis of real estate taxation;
 - b) to enjoy exemptions with respect to said tax.
- During occupation, **national taxes and charges, the single social fee (SSF) and the obligatory State pension insurance fee are not levied on the incomes, operations and/or other taxable items received by legal entities and physical persons in the temporarily occupied territory.**
 - The persons who were on accounting records with supervising bodies or had their residence in the Crimea AR at the time the occupation began **do not have to pay the SSF or abide by the provisions concerning payment registers in business activities** in the temporarily occupied territory of Ukraine.
 - The persons who were on accounting records with supervising bodies or had their residence in the Crimea AR at the time the occupation began **do not have to submit to the supervising bodies declarations (except for customs declarations), reports or other documents** concerning the calculation and payment of taxes and charges during the temporary occupation and after it is over.
 - Effective 1 June 2014, **tax registrations of the persons** who, as of 31 May 2014, had their residence and were on accounting records with the supervising bodies in the Crimea AR and Sevastopol, **are cancelled**. Such tax registrations can be resumed after the persons have moved to other territories of Ukraine.
 - During the occupation, profit tax payers with separated units in the "Crimea" FEZ **cannot pay the tax on the consolidated basis**. The same applies to the payers with seats in the "Crimea" FEZ and separated units in other territories of Ukraine.
 - Subventions, subsidies or other monetary payments from budgets, State social insurance (provision) funds, the Fund securing contributions of physical persons, tax social exemptions or other benefits and compensations **are not paid to the citizens of Ukraine who are simultaneously citizens of the occupying State**;
 - The NBU electronic/national payment systems servicing residents of Ukraine do not operate in the temporarily occupied territory.
 - It is forbidden to move the occupying State's cash currency across the administrative border of the "Crimea" FEZ, except for the money carried by physical persons in amounts within the equivalent of **UAH 10'000**, provided the amounts are declared orally to the customs.
 - It is forbidden to involve contributions (deposits) and/or grant loans (credits) in the territory of Ukraine in the occupying State's currency.
 - Ukraine's currency reserve cannot contain the currency issued by the occupying State nor securities (other debt tools) in the occupying State's currency.

- During the occupation, disputes between the subjects of economic activities with seats (residence) in the "Crimea" FEZ and the subjects of economic activities with seats (residence) in other territories of Ukraine, not settled by negotiations, **are under the jurisdiction of the courts of Ukraine or, if the parties agree so, the International Commercial Arbitration Court of the Chamber of Commerce and Industry of Ukraine and the Maritime Arbitration Commission of the Chamber of Commerce and Industry of Ukraine.**
- The Law also stipulates special rules for evacuating businesses from the occupied territory.

3. Key provisions of Law "On Securing Internally Displaced Persons' Rights and Freedoms"

- An internally displaced person means a citizen of Ukraine who resides permanently in Ukraine and was forced to leave or independently left his/her place of residence **as a result of or to avoid the negative consequences of the armed conflict, temporary occupation, universal violence, massive human rights violations and emergency situations of natural or technogenic nature.**
- Internal displacement is certified by an **internally displaced person registration certificate**, issued by a local State administration unit in charge of social protection.
- A **Single Information Database of Internally Displaced Persons** will be created.
- Internally displaced persons will enjoy exemptions and benefits, in particular:
 - they may receive places for temporary residence **for 6 months** at the cost and expense of the State/local self-government authorities;
 - they may be dismissed from jobs and get registered in an employment center in accordance with a simplified procedure (particularly without having to present their employment record books);
 - they may receive material aid, insurance fees, social and administrative services where they actually reside;
 - the right to continue education, including at the cost and expense of the State budget;
 - the right to terminate entrepreneurial activity and register a legal entity or get registered as a physical person-entrepreneur where they actually reside in accordance with the simplified procedure;

- during the occupation, the internally displaced persons who arrived from the temporarily occupied territory of the Crimea AR **are allowed not to repay principal amounts of mortgage loans and related accrued interests** with respect to the property located in the territories which were occupied temporarily after they had entered into their mortgage agreements.

4. Key provisions of NBU Resolution No. 699 dated 03.11.2014 “On Applying Selected Rules of the Currency Regulations During Temporary Occupation Regime on the territory of the of "Crimea" Free Economic Zone”

- For the purposes of applying NBU regulations persons with seats (registrations/permanent residence) in the "Crimea" FEZ **are treated as non-residents (and with respect to investments - as foreign investors)**.
- Contracts made between subjects of the Crimea and the subjects with seats in other territories of Ukraine are the instruments that can be used instead of **foreign-economic agreements (contracts)** in the course of applying the NBU regulations.
- Payments from the continental territory of Ukraine to the "Crimea" FEZ or those from the latter to the continental territory of Ukraine **must be made in compliance with the procedure stipulated by the NBU regulations for transfers from/to Ukraine** (these operations are not subject to the banks' control concerning the observance by residents of the **export/import payment timeframes** stipulated by the legislation of Ukraine).
- Investments by Ukrainian residents in the facilities located (registered) in Crimea AR **are prohibited**.