

MONITORING REPORT ON THE AMENDMENTS TO THE LAW ON THE RIGHTS OF INTERNALLY DISPLACED PERSONS

ADVOCACY, PROTECTION AND LEGAL ASSISTANCE TO THE IDP

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INTRODUCTION

On December 24, 2015 the Verkhovna Rada of Ukraine has adopted the Law of Ukraine “On Introducing Changes to Specific Laws of Ukraine aimed at Strengthening Guarantees of Rights and Freedoms of Internally Displaced Population” No. 921-VIII. The main goal of this legislation is to bolster rights and liberties of internally displaced population (hereinafter referred to as “IDPs”), and to simplify the procedure of their registration. The law has entered into force on January 13, 2016.

Provisions of this law are legally binding throughout the entire territory of Ukraine, and should be prioritized in any decisions concerning social protection of IDPs.

Key amendments introduced in the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Population”:

1. Citizens of Ukraine, as well as foreign national and stateless population can be registered as IDP (previously only citizens of Ukraine could be registered as internally displaced population);
2. An IDP certificate now has unlimited term, and becomes valid immediately after issuance without the State Migration Service stamps;
3. Persons who lived in the ATO zone or temporarily occupied areas with no permanent residence registration are now allowed to register as IDP by confirming the fact of such residence upon submission of relevant documents (military ID with information about military service, employment records, a document confirming ownership title to movable or immovable property, certificate of basic secondary education, certificate of complete secondary education, document certifying vocational training, document certifying higher education (academic



The Law № 921-VIII
aiming at strengthening
guaranteed of rights
and freedoms of
internally displaced
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entered into force
on January 13, 2016.

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The monitoring study was carried out by monitoring teams of “Right to Protection” in five oblasts of Ukraine – Dnipropetrovsk, Donetsk, Luhansk, Kharkiv and Zaporizhya from February 22 through March 4, 2016.

degree), medical records, photos, videos, etc.). The list of documents is NOT exhaustive; therefore, an applicant may present other evidence if available. The department of labour and social protection of the population (DLSP) shall consider such application within 15 working days and make a decision either on issuing an IDP certificate, or – in case of refusal – providing explanation of grounds for such refusal.

4. The procedure of cancellation of IDP certificate in case of the person's return to abandoned place of previous permanent residence presented in greater detail.
5. The procedure of employment termination was simplified for persons who were displaced from the ATO zone or temporarily occupied areas but failed to terminate their labour relations, and UkrPoshta (Ukrainian State Postal Service) does not operate at the places of their previous residence. From now on the letter of resignation can be submitted to the local Employment Centre at the IDP's current place of residence.

In order to explore the situation with execution of provisions of said law, the “Right to Protection” team has initiated this monitoring exercise.

This report is the result of monitoring within the project “Advocacy, Protection and Legal Assistance to the Internally Displaced Population” implemented by “Right to Protection” with the assistance of the Office of the United Nations High Commissioner for Refugees (UNHCR) and it provides summary on the implementation of the Law of Ukraine “On Introducing Changes to Certain Laws of Ukraine to Strengthen Guarantees of Rights and Freedoms of Internally Displaced Population” No. 921-VIII of December 24, 2015, in the Donetsk, Luhansk, Zaporizhya, Dnipropetrovsk and Kharkiv oblasts during the period from January 13, 2016 through March 4, 2016

MONITORING METHODOLOGY

The monitoring study was carried out by monitoring teams of “Right to Protection” in five oblasts of Ukraine – Dnipropetrovsk, Donetsk¹, Luhansk, Kharkiv and Zaporizhya from February 22 through March 4, 2016.

The data collection concerned all actors involved in the implementation of the Law:

- Government bodies for social protection of the population;
- Territorial units of the State Migration Service of Ukraine (SMS);
- Employment centres;
- Branches of Public Joint Stock Company “The State Savings Bank of Ukraine” (“Oshchadbank”);
- Services for children;
- Divisions of the Pension Fund of Ukraine.

¹ For monitoring purposes, the Donetsk oblast was conventionally divided into two parts – Northern and Southern.

Northern part of the Donetsk oblast in this report includes the following administrative and territorial units: Kramatorsk, Druzhkivka, Kostyantynivka, Bakhmut (former Artemivsk), the Bakhmutskiy (Artemivskiy) rayon, Mykolayivka, Slovyansk and the Slovyanskiy rayon, Dobropillya and the Dobropilskiy rayon, Dymytrov, the Oleksandrivskiy rayon, Krasnoarmiysk and the Krasnoarmiyskiy rayon, Selidove, Novohrodivka, Svyatohirsk, Lyman (former Krasnyi Lyman) and the Lymanskiy (former Krasnolymanskiy) rayon, Toretsk (former Dzerzhynsk) with adjacent communities (Novohorodske, Shcherbynivka, Kirove, Kurdiuvivka, Artemove), and the Kostynatynivskiy rayon.

Southern part of the Donetsk oblast in this report includes the following administrative and territorial units: the city of Mariupol and Volodarskiy, Velykonovosilkiivskiy, Maryinskiy (GCA part), Kurakhivskiy, Manhushskiy (former Pershotreavnevyi) rayons.

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Displaced persons themselves comprised an important source of information as they know first-hand how the system of IDP protection works in reality. IDPs, whose registration certificates expired in February and March 2016, or just before changes, introduced by the law, came into effect, were of particular interest for the researchers. We interviewed IDPs who were living in the collective centres or communities; were waiting in lines in government agencies; were former clients of "Right to Protection", or were recommended by other IDPs through the "snowball" approach.

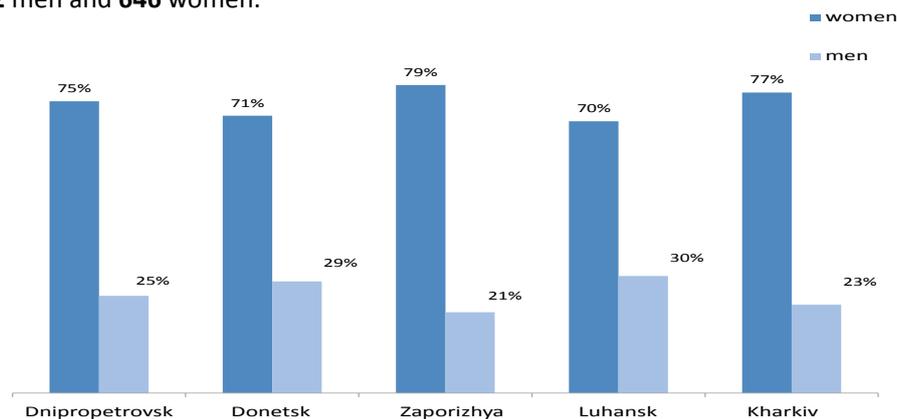
The following methods were used for data collection:

- Submission of formal requests for information to the local authorities at the oblast level;
- Surveys:
 - (a) of representatives of the city and rayon units of these agencies / bodies;
 - (b) of internally displaced population;
- Observation.

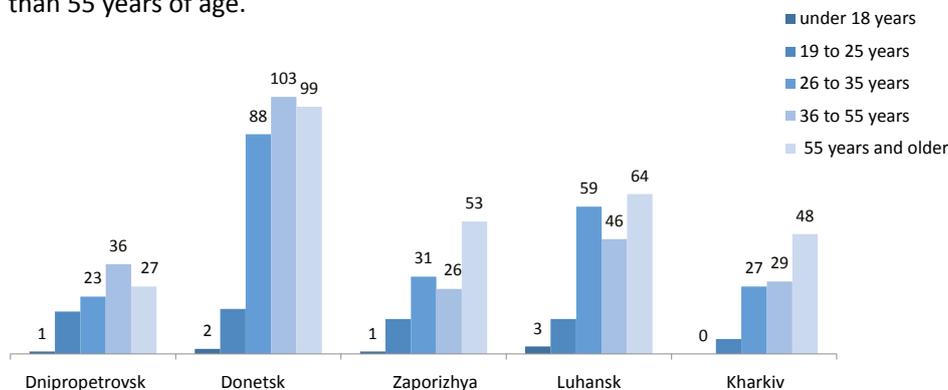
The monitoring toolkit can be found at: <http://vpl.com.ua/?p=968>

It should be noted that formal requests for information turned to be ineffective, as government bodies often ignored our inquiries, or provided incomplete or inaccurate information.

During the monitoring exercise we interviewed **878** IDPs in 5 oblasts, including **332** men and **646** women.



These included **8** persons under 18 years; **74** were aged 18 to 25 years; **236** were 26 to 35 years of age; **256** – from 36 to 55 years, and **304** respondents were older than 55 years of age.



At the time of survey most respondents were unemployed (653 persons, or 74%), which can be explained by the fact that the majority of surveyed IDPs aged 55 and older are pensioners; moreover, interviews were conducted during business hours, when employed IDPs were at work, while their unemployed relatives took their places in lines in local agencies.

The following methods were used for data collection:

- formal requests for information;
 - surveys of the authorities and IDPs;
- observation for the situation.

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Surveys were conducted in 69 DLSP, 68 services for children, 61 employment centres, 61 divisions of the Pension Fund, 69 "Oshchadbank" branches and outlets, and in 69 SMS units².

Importantly, the monitoring teams reported that the staff members of some government institutions and organizations refused to talk to monitors and to share any information with them.

MONITORING RESULTS

1. Amendments to the Law of Ukraine "On Ensuring Rights and Freedoms of Internally Displaced Population" (hereinafter referred to as "the Law"), No. 921-VIII of December 24, 2015

The survey results show that close to half of surveyed IDPs (from 42% to 55% of respondents in different regions) are aware of changes to the Law that have entered into force in January 2016.

According to surveyed IDPs, key changes are:

- The IDP certificate has unlimited term, and one does not have to renew it each 6 months;
- There is no need to put SMS verification stamps in the certificate anymore;
- Unaccompanied children (those traveling without parents or official guardians) now have an opportunity to receive an IDP status;
- An IDP certificate became accessible for individuals without official registration at non-government controlled areas (NGCA) by means of presenting a variety of evidence;
- Labour relations with employers in NGCA can be terminated at the employment centres in government controlled areas (GCA);
- Detailed procedure of IDP certificate cancellation is now available;
- IDPs can stay in NGCA for no longer than 60 days.

The majority of interviewed representatives of DLSP, services for children, employment centres, divisions of the Pension Fund, "Oshchadbank" branches and SMS units stated that they were aware of changes to the IDP Law. Staff members of services for children (SC) were generally less aware of said legislative changes. Particular lack of knowledge about these innovations was found in services for children in the Zaporizhya oblast. Similarly, two SC representatives in the Donetsk oblast – one in the southern and one in the northern part (8% of respondents surveyed in each region), 3 SC workers in the Dnipropetrovsk oblast (38%), and one SC representative in the Luhansk oblast (7%) knew nothing about changes to the Law.

At the same time, observations confirmed that the majority of government agencies and bodies (from 37% in the southern part of the Donetsk oblast to 81% in the Luhansk oblast, see Annex 1) did not have any information materials on relevant legislative changes.

Therefore, we can conclude that at the time of monitoring knowledge of these important amendments was insufficient both among IDPs and local officials. Moreover, local authorities carry out no information and awareness-raising activities to disseminate information about legislative changes among the public.

² Interviews with staff members of several government services in the Stanychno-Luhanskyi and Popasnyanskyi rayons of the Luhansk oblast were carried out over the telephone.

◀◀ Around half of surveyed IDPs are aware of changes to the Law. They mostly know the changes that affect them directly.

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2. Extension (renewal) of an IDP certificate

382 (or 44%) of surveyed IDPs were asked to extend their certificates for the next 6 months after the date when the Law became effective (on January 13, 2016). The fewest number of such cases was found in the Luhansk oblast (23 IDPs, or 12.5%), and in the southern part of the Donetsk oblast (45 IDPs, or 26%). Opposite situation was observed in the Zaporizhya (100 IDPs, or 80%) and Kharkiv (86 IDPs, or 78%) oblasts.

Respondents' answers also vary concerning demands for certificate extension among their IDP relatives and friends. For example, only 13% of surveyed IDPs in the Luhansk oblast reported such cases; the prevalence of such situations in the southern part of the Donetsk oblast increases to 30%. Meanwhile, 68% of respondents in the northern part of the same oblast reported cases, when their friends or relatives were asked to renew their IDP certificates; and this number rises to 78% in the Zaporizhya oblast.

25 surveyed employees of DLSPP (**36%**) reported about **cancellation of IDP certificates** after January 13, 2016. They mentioned the following grounds for such action: expiry of the certificate; death of an IDP; IDP's movement to another oblast; IDP's request to withdraw his/her registration, or provision of knowingly false personal information; IDP's return to non-government controlled areas of Ukraine.

According to the above, it is safe to say that regardless of changes to the Law, in practice one still needs to extend his or her IDP certificate.

3. IDP Registration

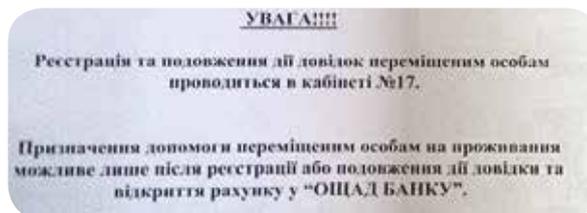
A substantial proportion of DLSPP workers (**38 persons, or 55%**) believe that changes to the Law have influenced the process of IDP registration.

Respondents, who note such changes, explain that they no longer require the SMS stamp, issue primary certificate within one day, and register persons as IDPs without registration of their residence. At the same time, those who pointed at the absence of changes, explain that current resolutions of the Cabinet of Ministers of Ukraine No. 505 and 509 were not amended accordingly. Moreover, there is no technological capacity to make certificates "unlimited" as software automatically inserts the expiry date in the certificate. Respondents also complain about the lack of guides and tips on how to work with new legal provisions.

Around half of surveyed DLSPP employees (**36 persons, or 52%**) report to have registered IDPs without accommodation registration on the basis of evidence that confirms their residence in non-government controlled areas. The most common documents presented for these purposes include:

- A certificate of secondary education or school diploma;
- Real estate purchase and sale agreement, a certificate of ownership title to property;
- Employment record, certificate of resignation;
- Certificate of inheritance;

44% of surveyed IDPs were asked to extend their certificates for the next 6 months after the date when the Law became effective (on January 13, 2016).



This is the announcement from one of the divisions of social protection of the population, saying that IDP benefits for accommodation can only be allocated after registration or prolongation of the IDP certificate and opening bank account at "Oshchadbank".

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DLSP began to register foreigners and stateless persons as IDPs.

- Certificate of residence issued by the village council;
- Military ID.

Some district DLSP in the city of Kharkiv still do not register individuals with no residential registration in NGCA. Other surveyed DLSP in the Kharkiv oblast did not report such cases.

Speaking about registration of foreign national and stateless persons as IDPs, representatives of DLSP confirmed receiving such applications in all five regions covered by the study. All applicants received their IDP certificates, with the exception of a case in one of the Kharkiv city districts.

Upon application, a child with the citizenship of Ukraine was registered as an IDP. At the same time, the child's parents (citizens of another country) did not receive IDP certificates.

In the Luhansk oblast an IDP certificate was issued to an individual with temporary 3-year residential registration in the Russian Federation. Later on the Pension Fund division denied his pension (since he has to receive it in Russia), and his IDP certificate was terminated.

As for the registration of persons who are being registered for the first time since January 13, 2016, all surveyed DLSP officials in the Kharkiv and Zaporizhya oblasts informed that they continue issuing 6-month certificates. The majority of respondents in the Donetsk region reported issuing the same certificates with the validity period of 6 months (75% in northern part, and 67% in the southern). In contrast, all respondents in the Dnipropetrovsk oblast assured that they started issuing certificates with unlimited validity period. Since the software automatically creates certificates with a 6-month validity term, DLSP workers manually mark them as "unlimited" on the backside of the document. The situation in the Lugansk oblast is the following: 47% of respondents issue a certificate valid through 2054 (since it is technically impossible to specify its "unlimited" nature), and the remaining 53% issue 6-month certificates



Therefore, DLSP in all monitored regions do not have a single procedure concerning persons who are being registered as IDP for the first time starting from January 13, 2016.

Speaking about IDPs, whose certificates expired in January-February, or set to expire in March 2016, absolute majority of surveyed DLSP workers (100% in the Kharkiv and Zaporizhya oblasts; 88% in northern part of the Donetsk oblast and in the Dnipropetrovsk oblast; and 78% in southern part of the Donetsk oblast) note that they extend the validity period of certificates issued to this category of internally displaced persons. It is explained by the need to continue payment of monetary assistance, by "Oshchadbank" requirements, and by current Cabinet of Ministers Resolution No. 505, which is yet to be amended.

In contrast, 100% of respondents in the Luhansk oblast view these certificates as "unlimited". Yet in cases when other government institutions and organizations request "renewal" of IDP certificates, staff members of DLSP may extend the validity period of these documents only upon personal visit and request from IDP.

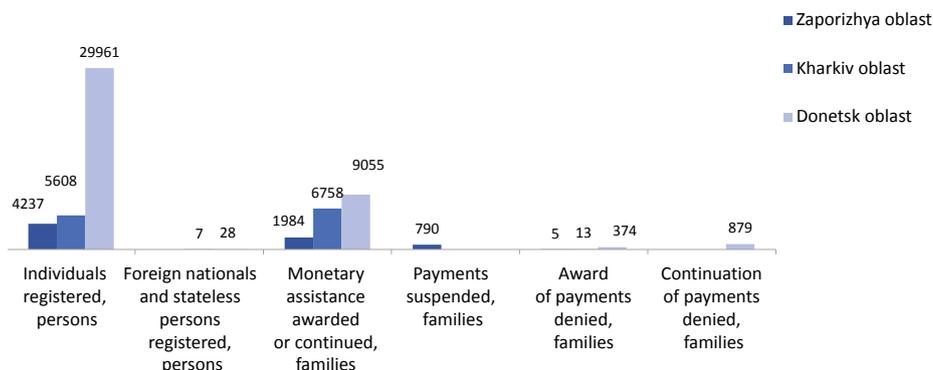
Upon inquiry of "Right to Protection", oblast DLSP provided the following data for the period from January 13 through February 22, 2016:



DLSP in all monitored regions do not have any unified procedure concerning persons who are being registered as IDP for the first time starting from January 13, 2016.

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DLSP in the Dnipropetrovsk oblast did not answer the request for information.

Official response of the Department for social protection of the population at the Luhansk oblast civil-military administration included information on the number of IDUs registered in the region, and the situation with awarding of monthly targeted assistance to IDPs for the period from October 2014 until February 18, 2016. This information actually missed the point.

The Kharkiv monitoring team noted that local DLSP provided incomplete information both in responses to official inquiries and during the monitoring. Data provided by the oblast Department and its rayon units are different; the same is true for information obtained from DLSP workers during the survey.

In summary, by the time of preparation of this report one can observe certain improvements in IDP registration. More than one-third of surveyed DLSP workers admitted registering IDPs with no residence registration upon presentation of other forms of evidence of residence in NGCA. Moreover, DLSP started registering foreign citizens and stateless persons as IDPs. Unfortunately, the provision of the Law requiring introduction of “unlimited” nature of an IDP certificate often fails in practice. In addition, individuals who are being registered as IDPs for the first time after January 13, 2016, predominantly receive 6-month certificates, with the exception of the Dnipropetrovsk oblast.

4. Registration of unaccompanied IDP children

Monitoring of services for children (SC) exposed the absence of a single procedure of registration of unaccompanied children. During the survey our monitors asked SC representatives to describe the procedure, and received varying answers even within one region.

Surveyed staff members of services for children described the following bottlenecks in the procedure of registration of unaccompanied children:

- The lack of clarity with payments to IDP children, particularly specifics of the account opening process;
- The lack of clarity with primary registration of a child, if he or she moved from NGCA and lost identification documents (birth certificate).

At the same time, the ONLY region where no SC workers reported any problems with registration of unaccompanied children was the northern part of the Donetsk oblast.

Surveyed IDPs who either personally encountered problems with registration of IDP children, or learned about them from relatives and friends, have identified the following challenges:

- The lack of clarity with registration of a parentless child by DLSP and SC specialists;

The provision of the Law requiring introduction of “unlimited” nature of an IDP certificate often fails in practice. In addition, individuals who are being registered as IDPs for the first time after January 13, 2016, predominantly receive 6-month certificates.

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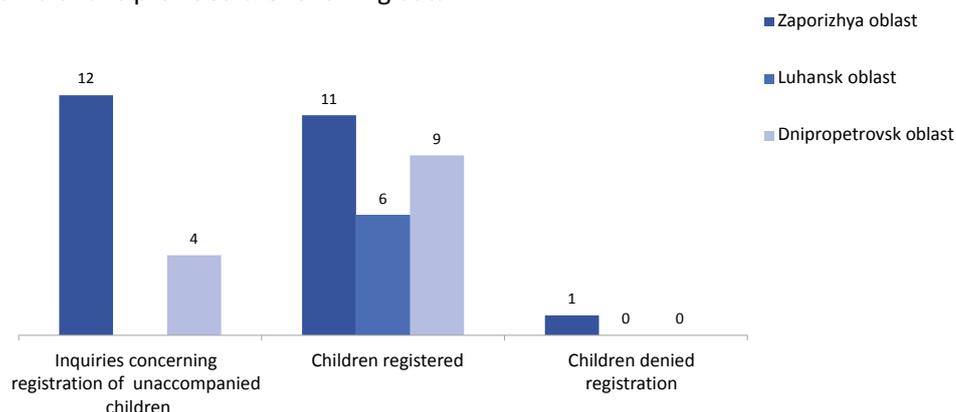
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Procedures for the registration of unaccompanied children is not clear both for workers of services for children and for IDPs

- The lack of information and knowledge about specific agencies, where one should go to register an unaccompanied child;
- Unwillingness of family members of an IDP child to deprive his or her parents of their parental rights through legal action;
- The lack of clarity with registration of underage students as internally displaced persons.

Upon request for information about registration of unaccompanied children during the period from January 13 through February 22, 2016 the departments for child affairs provided the following data:



The Dnipropetrovsk authorities provided information only concerning the Novomoskovskiy rayon, as well as Zhovtnevyi and Leninskyi districts of the city of Dnipropetrovsk.

Services for children in the Kharkiv oblast failed to provide any information.

Services for children in the Donetsk oblast informed that during the period under study there were no requests and appeals regarding registration of unaccompanied children. Further be advised that registration and records on IDPs, including children, is the responsibility of DLSP.

Therefore, the issue of registration of unaccompanied (not accompanied by parents or legal representatives) IDP children remains challenging. The lack of clear mechanism of registration of unaccompanied children is still an obstacle, but the presence of reported cases where children were eventually registered as IDPs points at positive dynamics in this process.

5. Residence verification stamps in IDP certificates

The State Migration Service (SMS) specialists in all 5 regions under study confirmed changes in their work. SMS personnel in the Kharkiv region reported that their agency stopped conducting any work with IDPs following adoption of the amended Law. Similarly, SMS in the Luhansk, Dnipropetrovsk and Zaporizhzhya oblasts also stopped stamping of IDP certificates. SMS officers in the Zaporizhzhya oblast added that they do not conduct verification of actual residence of internally displaced persons. On the contrary, SMS in the northern part of the Donetsk oblast conducts IDP residence checks, but the practice of stamping of IDP certificates is no longer available. SMS staff in the south of the Donetsk oblast confirm the end of use of SMS verification stamps; they also report that cancellation of this practice reduced waiting lines in SMS units, and lessened the workload of their officers.

Yet, according to representatives of "Oshchadbank", many branches and outlets of their bank in Zaporizhzhya (**30%**) and Kharkiv (**11%**) oblasts refuse accepting documents

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for formalization or continuation of financial assistance to internally displaced persons, if their IDP certificates have no SMS verification stamp. Bank workers offer several explanations for this situation:

- They did not receive new directives, and use provisions of the Resolution No. 509;
- A computer system blocks documents without registration;
- They are guided by internal instructions.

Monitoring also revealed that some (only a few) “Oshchadbank” employees in the Zaporizhya and Luhansk oblast, as well as in the northern part of the Donetsk region were not aware of changes in legislation.

All staff members of “Oshchadbank” branches in the Donetsk, Luhansk and Dnipropetrovsk oblast have admitted accepting documents without SMS verification stamps. However, responses of bank employees, surveyed in the southern part of the Donetsk oblast, disagree with the results of IDP interviews, as some IDPs report being asked to have these stamps in their certificates.

22 of surveyed DLSP workers (**32%**) admitted asking IDPs to present SMS verification stamps. Grounds for these requests include:

- The Cabinet of Ministers Resolutions No. 509 and 505;
- The Cabinet of Ministers Resolution No. 79.

According to survey results, DLSP workers in the Luhansk and Dnipropetrovsk oblasts do not typically demand the SMS stamp in IDP certificates. Yet IDPs interviewed in both regions informed that people in DLSP still wanted to see these stamps in their certificates. At the same time, DLSP employees in the Luhansk oblast admitted to be wary of responsibility for granting IDP status without securing approval of SMS and other responsible parties.

Moreover, **46** of all surveyed DLSP representatives (**67%**), and in the Kharkiv oblast all **100%**, admitted to have rejected awarding or continuation of monetary assistance to IDPs, if their certificates lack SMS verification stamp. Grounds for that include:

- The Cabinet of Ministers Resolution No. 505;
- A requirement to have an SMS verification stamp in IDP certificates, issued before January 13, 2016;
- No explanation of legislative changes that entered into force on January 13, 2016;
- Computer software makes it impossible to award or continue payments without SMS stamp.

As mentioned above, SMS personnel in the Kharkiv region reported that their agency stopped conducting any work with IDPs following adoption of the amended Law.

The situation is totally different in the Dnipropetrovsk oblast, where all surveyed DLSP representatives insisted that they never rejected awarding or continuation of payments to IDPs, even when their certificates had no SMS verification stamps.

115 of all surveyed IDPs (13%) informed that officials demanded SMS stamps in their certificates. Such violations occurred in all 5 regions under study. Furthermore, **99 IDPs (11%)** learned about these situations from other people.

These reports from IDPs come into conflict with the note, prepared by the Central Department of the State Migration Service of Ukraine in the Donetsk oblast in response to the request for information by “Right to Protection”. According to this letter, territorial units of SMS stopped registering residence of IDPs since January 13, 2016. In addition, the IDP certificate was removed from the list of documents that require a stamp on the registered residence / location of an individual.

All interviewed employees of SMS confirmed that they do not put their stamp on IDP certificates. However, DLSP and “Oshchadbank” employees do not accept IDP certificates without stamp of SMS.



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Almost half of IDPs have problems with receiving targeted monetary assistance, preconditioned, among others, by conflicting requirements concerning the presence of SMS residence verification stamps in IDP certificates.

Therefore, according to the Law, SMS officers are no longer putting their stamps on IDP certificates. However, given the fact that other government bodies generally ignore the “unlimited” nature of IDP certificate, introduced by the Law, the situation with opportunities for realization of IDP rights has gone from bad to worse. The IDP survey shows that the absence of SMS stamp leads to problems with awarding / receiving of social benefits. While explaining the need for SMS residence verification stamps in IDP certificates, workers of “Oshchadbank” and DLSP employees refer to the Cabinet of Ministers of Ukraine Resolutions No. 505 and 509, and mention the absence of technological capacity of a computer system to designate social benefits to an IDP without SMS verification stamp.

6. Receiving of targeted assistance

About a half of surveyed IDPs (408 persons, or 47%) report problems with receiving targeted monetary assistance. Issues mentioned by respondents include:

- Payment delays for up to 3 months;
- Monthly changes in amounts payable;
- Suspension of payments due to the need to extend the validity period of an IDP certificate, or to confirm one’s temporary residence;
- Resumption of payments from the date of referral to DLSP, rather than the date of suspension;
- Termination of payments due to expiry of SMS verification stamp or its absence in IDP certificate;
- Suspension of payments in connection with “SBU lists”.

According to information from the Donetsk oblast branch of “Oshchadbank”, 7,834 individuals (3,552 in the northern part, and 4,282 – in the southern part of the region) have applied for targeted assistance from January 13 through February 22, 2016. The total number of internally displaced persons receiving targeted monetary assistance in the oblast is 33,798.

The Dnipropetrovsk oblast branch of “Oshchadbank” refused to provide necessary information, making reference to commercial, banking and business secrecy.

The Zaporizhya oblast branch of “Oshchadbank” informed that it had no obligation to keep a register of IDPs, therefore it was not possible to provide necessary information.

Central branches of “Oshchadbank” in the Luhansk and Kharkiv oblasts did not respond to our requests altogether.

Therefore, almost half of IDPs have problems with receiving targeted monetary assistance, preconditioned, among others, by conflicting requirements concerning the presence of SMS residence verification stamps in IDP certificates.

7. Award of pension benefits

According to responses of the staff of territorial divisions of the Pension Fund of Ukraine (PFU), only some of them in the Kharkiv (9%), Zaporizhya (20%) and Luhansk (7%) oblasts, and in the southern part of the Donetsk oblast (33%) DO NOT maintain, re-register or transfer pension payments to IDP pensioners without SMS stamp in the



Line to “Oshchadbank” in Lyman (Luhansk oblast).

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certificate. They explain their refusal to do so by the lack of clarity and explanations of legislative changes.

All interviewed PFU workers in the Dnipropetrovsk oblast and in the northern part of the Donetsk region maintain, re-register or transfer pension benefits and payments to IDP pensioners without SMS stamp. However, according to IDP reports, some PFU officials in the northern parts of the Donetsk region may demand such stamps in IDP certificates.

Speaking about problems with awarding pensions to IDPs, the majority of surveyed PFU representatives (**53 persons, or 87%**) suggested that no problems emerged since January 13, 2016

The remaining respondents, who reported some pension-related problems, mentioned the following reasons:

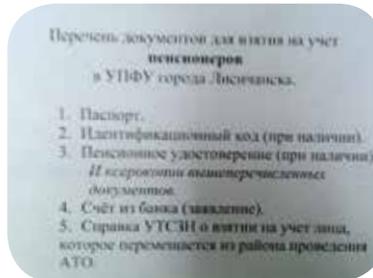
- Suspension of payments in connection with “SBU lists”;
- Suspension of pension payments due to DLSP lists, which include pensioners not living at the address, indicated during IDP registration;
- Refusal to pay pensions in cases of failure of pensioners to re-register at the place of their actual residence;
- The lack of clarity with “unlimited” nature of IDP certificates.

According to statistics, received from the Central division of the Pension Fund of Ukraine in the Dnipropetrovsk oblast in response to “Right to Protection” request, it can be seen that no person was rejected among those who applied to PFU bodies from January 13, 2016 through February 22, 2016 to transfer, award or continue pension payments. Moreover, of 1,143 IDUs who applied to Dnipropetrovsk regional divisions of PFU for these purposes during said period, 92.8% of IDUs (or 1,061 applicants) have already had their pensions transferred, awarded or continued.

Current data of the Pension Fund divisions in city districts of the city of Kharkiv and in the Kharkiv oblast show that from January 13, 2016 to February 22, 2016 as much as 2,175 individuals submitted applications concerning their pensions and transfer of their pension benefits to their current places of residence in the Kharkiv oblast.

Central divisions of the Pension Fund of Ukraine in the Zaporizhyya, Luhansk and Donetsk oblasts did not provide clear information in response to information requests, explaining it by the lack of necessary data.

Based on the above, it is safe to say that most IDP pensioners do not have any problems with awarding, transferring or continuing their pension benefits with the exception of the Zaporizhyya oblast and southern part of the Donetsk oblast, where substantial proportion of PFU representatives admitted rejecting pensions without proper SMS verification stamps in IDP certificates.



The picture shows the list of documents requested by Pension Fund in Lysychansk (Luhansk oblast) to get registered as pensioner.



Line to the Pension Fund in Volnovakha (Donetsk oblast).

According to IDPs, the suspension of payments in connection with “SBU lists” is one of the reasons for pension-related problems.





IDPs are able to terminate their labour relations with an employer in non-government controlled area.

8. Termination of labour relations

Representatives of the Employment centres (hereinafter referred to as EC) provided quite diverse information about how amended Law affected the functioning of EC.

The proportion of those who noticed such changes in the northern part of the Donetsk oblast was 33%; in the southern part of the same region – 43% of respondents; in the Luhansk and Dnipropetrovsk oblasts – 47% and 50% correspondingly.

The survey showed that the lack of SMS stamp in the certificate did not affect IDP registration in an employment centre, whereas in case of absence of an employment record book, registration of IDPs as unemployed persons requires notarized statement on termination of labour contract with an employer in non-government controlled area.

Granting preferences to an employer that hires an internally displaced person is one positive development. However, 100% of respondents in the Kharkiv oblast, and 80% of respondents in the Zaporizhya oblast noted that changes in the Law did not influence functioning of the employment centres.

26 of all surveyed representatives of the employment centres (43%) reported interaction with IDPs concerning termination of labour relations, as it was impossible for them to work (or maintain other type of employment) at the previous place of residence pursuant to paragraph 2, part 4 of Article 7 of the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Population”.

Most EC representatives explain IDPs how to prepare a letter of resignation from the previous place of employment. Such application must be notarized. According to both EC representatives and IDPs, not all IDP clients return to the employment centre following consultations and explanation of the procedure, as many of them cannot afford notarial expenses, related to notarization of the letter of resignation for a NGCA-based employer.

According to information, provided by the employment centres, the number of persons requesting assistance with termination of labour relations due to impossibility to work (maintain other type of employment) at the previous place of residence pursuant to paragraph 2, part 4 of Article 7 of the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Population” during the period from January 13 to February 22, 2016 was as follows:

- In the Zaporizhya oblast – 7 persons;
- In the Donetsk oblast – 3 persons;
- In the Luhansk oblast – 2 persons;
- And in the Dnipropetrovsk oblast – 3 persons.

Information from EC in the Kharkiv oblast is not available.

Therefore, one can observe a positive trend in how IDP received an opportunity to terminate their labour relations due to impossibility to work (maintain other type of employment) at the previous place of residence pursuant to paragraph 2, part 4 of Article 7 of the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Population”. Statistics shows that IDPs made use of this opportunity in the Dnipropetrovsk, Donetsk, Luhansk and Zaporizhya oblasts, but the number of such cases is miniscule. The problem is that due to the lack of money not all IDPs can afford notary services in order to formalize their letters of resignation.

RECOMMENDATIONS:

1. For the Verkhovna Rada of Ukraine:

1.1. To strengthen parliamentary control over implementation and enforcement of the Law of Ukraine "On Introducing Changes to Certain Laws of Ukraine to Strengthen Guarantees of Rights and Freedoms of Internally Displaced Population" No. 921-VIII of December 24, 2015

1.2. To contact the Cabinet of Ministers of Ukraine with an enquiry to prepare the Government report on the implementation of the abovementioned Law of Ukraine.

2. For the Ukrainian Parliament Commissioner for Human Rights:

2.1. In line with the Law of Ukraine "On Access to Public Information" within its function to ensure parliamentary control over the observance of the right to access to public information, to initiate verification of the facts set forth in this report concerning failure of structural units of the oblast state administrations, territorial divisions of the Pension Fund of Ukraine, State Migration Service, "Oshchadbank" branches and outlets to provide responses to "Right to Protection" requests for information, or provision of incomplete answers to these requests; in case of violations of the Law of Ukraine "On Access to Public Information" to demand from these government bodies to hold relevant officials responsible for violating the rights to access to public information.

3. For the Cabinet of Ministers of Ukraine:

3.1. To strengthen control over enforcement of the Law of Ukraine "On Access to Public Information" by the local state administrations concerning provision of complete and reliable information in response to relevant requests and within terms, stipulated by this Law;

3.2. To bring the Cabinet of Ministers of Ukraine Resolution No. 509 of October 1, 2014 "On Registration of Internally Displaced Population" in line with provisions of the Law of Ukraine "On Ensuring Rights and Freedoms of Internally Displaced Population";

3.3. To discontinue the practice of suspending payments of social benefits and pensions to internally displaced persons;

3.4. To ensure timely accounting and payment of all types of social benefits, allowances and pensions to internally displaced population;

3.5. To consider a possibility of exempting IDPs from payment of notary expenses for notarization of the letter of resignation for a NGCA-based employer.

4. For the Ministry of Social Policy of Ukraine

4.1. With involvement of NGO representatives, to ensure organization and implementation of the nationwide information campaign for the staff of local administrations, central and local executive bodies, executive committees of local councils, including labour and social security agencies, as well as for IDPs on key provisions of the Law of Ukraine "On Ensuring Rights and Freedoms of Internally Displaced Population", particularly on changes to the Law that entered into force in 2016;

4.2. To discontinue the practice of extending the validity period of IDP certificates for 6 months, and to promote adequate issuance of "unlimited" IDP registration certificates;

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4.3. To ensure technical capacities for entering information about issued “unlimited” certificates in IDP database, and removing the necessity for inclusion of SMS verification stamps in IDP certificates;

4.4. To streamline the practice of registering foreign nationals and stateless persons as IDPs, and to prepare methodological recommendations on these issues for local state administration and executive bodies;

4.5. To streamline the practice of registering individuals, who do not have residence registration in NGCA or temporarily occupied territories in their passports, as IDPs, and to prepare methodological recommendations on these issues for local state administration and executive bodies;

4.6. To streamline the practice of registering unaccompanied children (those displaced without parents or legal representatives) as IDPs, and to prepare methodological recommendations on these issues for local state administration and executive bodies.

5. For the Pension Fund of Ukraine:

5.1. To discontinue the practice of suspending accounting and payment of pensions to internally displaced persons;

5.2. To ensure timely accounting and payment of pensions to internally displaced persons.

6. For oblast state administrations:

6.1. To prevent violations of the provisions of the Law of Ukraine “On Access to Public Information” concerning non-provision of complete and reliable information in response to relevant requests and within terms, stipulated by this Law;

6.2. To reinforce cooperation with human rights NGOs in the area of sharing information of significant public interest, which is important for the protection of human rights and freedoms;

6.3. To prevent ill-treatment of staff of human rights NGOs, including those protecting the rights of internally displaced persons, by employees of oblast and rayon state administrations;

6.4. With involvement of NGO representatives, to ensure organization and implementation of regional information campaigns for the staff of rayon state administrations, local executive bodies, executive committees of local councils, including labour and social security agencies, as well as for IDPs on key provisions of the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Population”, particularly on changes to the Law that entered into force in 2016;

6.5. While issuing IDP certificates, to apply provisions of the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Persons”, according to which these documents have no expiration date.

7. For PJSC “The State Savings Bank of Ukraine” (“Oshchadbank”):

7.1. To reinforce cooperation with human rights NGOs regarding execution of the Law of Ukraine “On Access to Public Information”, namely in the area of provision of complete and reliable information in response to relevant requests and within terms, stipulated by this Law;

7.2. To rationalize the work of the employees of “Oshchadbank” branches and outlets with internally displaced persons; to bring these practices in line with provisions of the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Population”; and to prepare relevant methodological recommendations for all “Oshchadbank” personnel all over Ukraine.

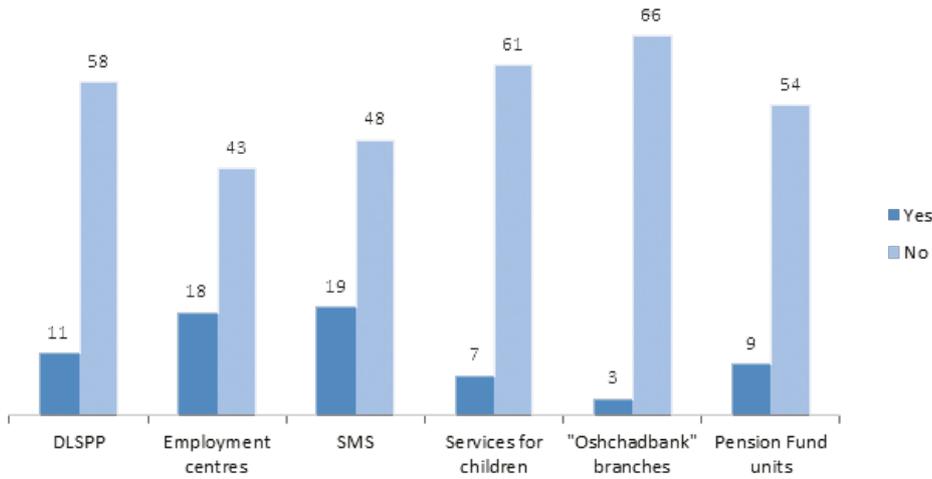
MONITORING REPORT ON THE AMENDMENTS TO THE LAW ON THE IDP'S RIGHTS

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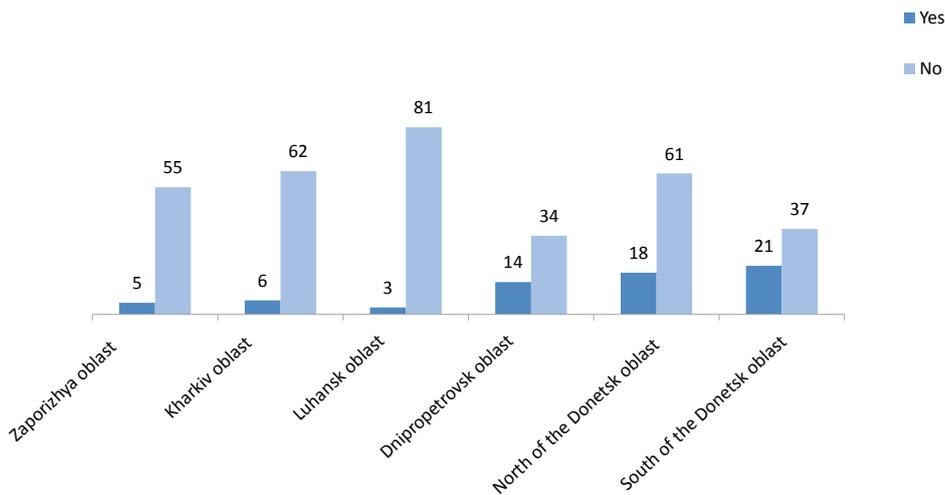
ANNEXES

Annex 1

Availability of information materials about changes in the Law in territorial units and divisions of SMS, the Pension Fund, services for children, and employment centres in the Donetsk, Luhansk, Kharkiv, Dnipropetrovsk and Zaporizhya oblasts.



Availability of information materials about changes in the Law in government institutions and organizations in all regions under study.



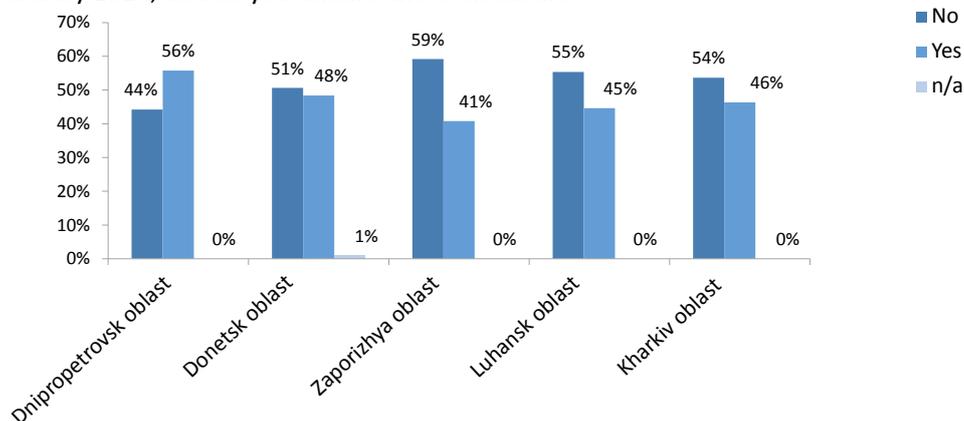
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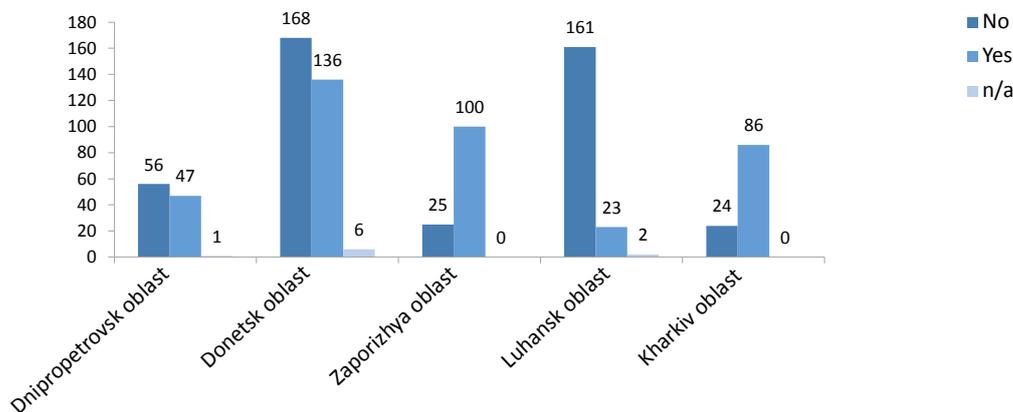
Annex 2

Diagrams of results of IDP survey

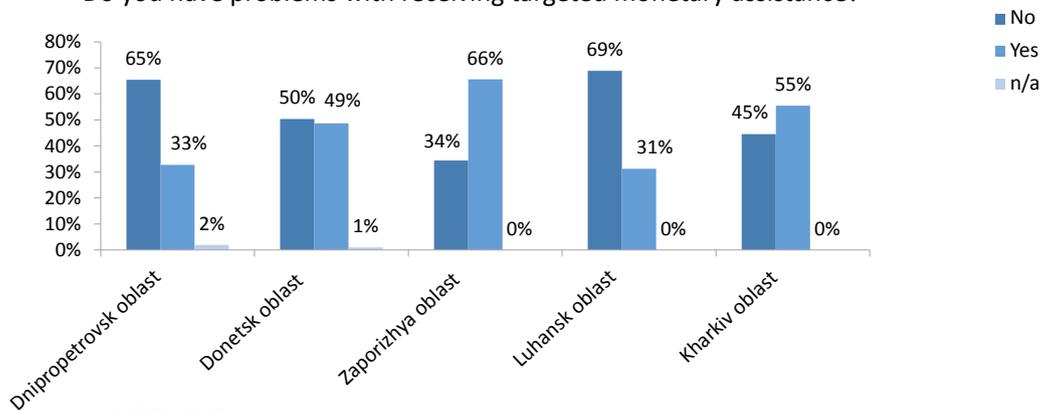
Are you aware of changes in the Law on IDP rights that entered into force in January 2016, and do you understand their nature?



Did anyone demand of you to extend your certificate for the next 6 months after introduction of these changes?



Do you have problems with receiving targeted monetary assistance?



For more information please contact: pr@r2p.org.ua



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