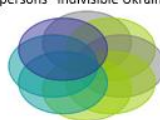




UNHCR implementing partner



Coalition (network) of civic organizations of internally displaced persons "Indivisible Ukraine"



Civic organization "Human Rights Organization of Women-migrants "Will to Live"

# Current state of the rights and freedoms of internally displaced persons in Ukraine Stakeholders' Report

## Ukraine

The report, is prepared within the Universal Periodic Review of United Nations Twenty-eighth session of the UN Human Rights Council on Universal Periodic Review (third cycle)

2017

The Coalition presenting this submission is an informal association created in February 2017 specifically for joint preparation of this report. It allows covering the issues of internally displaced persons' rights in Ukraine most fully and comprehensively. It consists of formalized structures, i.e. 13 non-governmental organizations.

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The report was prepared with the technical support of the Ukrainian Helsinki Human Rights Union

## **1. Introduction**

Since the beginning of the occupation of Crimea and armed conflict in the Donetsk and Luhansk regions, Ukraine faced a new phenomenon of mass internal displacement of people. As of March 6, 2017, according to official data of the Ministry of Social Policy of Ukraine (MinSocPolicy), there are 1,622,835 internally displaced persons (IDPs) in Ukraine.

During three years of internal displacement the Government of Ukraine by slow, uncertain steps implements the policy to stabilize the situation in Ukraine, to ensure the constitutional rights and welfare for IDPs. The society notes a number of positive developments - adoption of the legal framework that enshrines the rights and freedoms of IDPs, creation of the Ministry of affairs on temporarily occupied territories and IDPs (MTOT)<sup>1</sup> as a focal point on above mentioned issues in the Government, etc. Most of the implemented or currently under implementation steps are not quite effective, and some even contradict the Constitution of Ukraine, international law and recommendations which Ukraine has received under the UPR and pledged to implement.

## **2. State of the rights and freedoms of IDPs in Ukraine**

The main problems for IDPs in Ukraine are: suspension or denial of benefits and complicated verification procedures of the place of residence of IDPs. Most frequently IDPs turn to NGOs for legal assistance with: re-issuing of documents (passport, TIN<sup>2</sup>, education documents, documents of title to property), receiving of a IDP certificate, release from the place of work located in the uncontrolled area and further paperwork for employment, obtaining subsidies.

A serious challenge for IDPs are still the issues of employment and finding housing in the context of the discriminatory attitude of the local communities to migrants. The Government in its turn over three years has not taken effective measures to integrate IDPs at the new locations.

### **2.1. IDP registration process**

Only in the end of 2016 the Government took several significant measures to streamline IDP registration process in Ukraine. On August 2, 2016 a centralized database (UIDB)<sup>3</sup> of IDPs was put into trial operation.

On September 22, 2016 the Government approved the Procedure for establishment, maintenance and access to data in UIDB of IDPs. The positive is that the Procedure provides partial access to UIDB for volunteers, NGOs and other organizations that can offer assistance to IDPs directly in the database.

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<sup>1</sup> The Ministry is the main body in the system of central executive bodies, providing formation and implementation of the national policy on Affairs of the Autonomous Republic of Crimea and Sevastopol and some areas of the Donetsk and Lugansk regions where public authorities temporarily do not exercise their authority.

<sup>2</sup> Individual tax number

<sup>3</sup> Unified information database

But at the beginning of March 2017 UIDB is not available for the MTOT and NGOs that assist IDPs in Ukraine. The UIDB operates without major problems only from the beginning of 2017<sup>4</sup>. And, despite of this, the exact number of IDPs in Ukraine is still unknown, a figure provided by MinSocPolicy constantly decreases over the past 8 months, from 1,790,267 in July 2016 to 1,622,835 in March 2017 and it is impossible to find a real trend in the number of IDPs. However, there is no way to meet needs of IDPs without knowing their exact number.

Another issue of great concern is that the MinSocPolicy is responsible for the development and maintenance of the database, as well as its administration, and also controls access to the database. The MTOT, one of the tasks of which is to ensure the development and implementation of Government policy on IDPs is not authorized to register IDPs and does not influence this process. The MTOT under current legislation can only receive information on IDPs and report with data on IDPs. The MinSocPolicy remains the main authority in the field of IDP registration process as it is stipulated by adopted in 2014 Law<sup>5</sup>.

## **2.2. Welfare**

The current legislation of Ukraine stipulates that the appointment and prolongation of payment of all kinds of social benefits and compensations as well as pensions to IDPs is made at the place of registration of such persons<sup>6</sup>, as confirmed by a certificate of IDP registration.<sup>7</sup> It means that displaced can receive social aid from the state only if they have IDP certificate.

In 2016 the access to social benefits for IDPs became more complicated. Based on the letter of the MinSocPolicy “On strengthening controls on registering internally displaced persons”<sup>8</sup> and formed by the Security Service of Ukraine lists of IDPs who supposedly live in NGCA<sup>9</sup>, Departments of Social Protection (DoSPs) automatically stopped validity of IDP certificates, and with it the possibility of all kinds of social benefits for 460,000 people.

These actions took place without written decision with justification of legal grounds, without warning IDPs, contrary to the Constitution of Ukraine and the Law of Ukraine “On ensuring of rights and freedoms of IDPs”.

In the first half of 2016 access to social benefits for IDPs who had at that time to renew their certificates was complicated due to a legal conflict: Law on IDPs abolished the need for affixing stamps about the place of registration by the State migration service (SMS) at IDPs certificates, but the Government didn’t make the corresponding amendments to its by-laws.

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<sup>4</sup> According to R2P monitoring of UIDB functioning in eastern regions in October the UIDB didn’t work correct, the problems and mistakes with the database were fixed in November and December as well.

<sup>5</sup> The Law of Ukraine "On the rights and freedoms of IDPs" access address:  
<http://zakon3.rada.gov.ua/laws/show/1706-18>

<sup>6</sup> The CMU Resolution No. 637 of November 5, 2014 "On social benefits for internally displaced persons"

<sup>7</sup> According to the procedure for processing and issuing of the certificate of registration of internally displaced persons, approved by the Cabinet of Ministers of Ukraine Resolution of October 1, 2014 No. 509

<sup>8</sup> Letter No 672/0/10-16/081 of February 16, 2016

<sup>9</sup> Non-government controlled area or the territory beyond the control of the Government of Ukraine

As a result of the conflict<sup>10</sup> IDPs could not prolong validity of the certificate, and were not able to receive pensions and social benefits.

The situation became more complicated with introduction in spring of the requirement for all IDPs to receive social benefits and pensions in state bank “Oshchadbank” only<sup>11</sup>, which led to queues, irregular payments. People are still deprived of freedom of choice how to receive pensions and social benefits.

June 8, the Government approved the Procedures for appointment of social benefits for IDPs and for control over social payments to IDPs according to place of their actual residence<sup>12</sup>.

These changes significantly worsened the position of IDPs and introduced additional discriminatory mechanisms for re-appointment of social benefits and their control by the state, limited freedom of movement and right to privacy. Moreover, these innovations are critical in terms of the widespread suspension of payments of all kinds of social benefits and pensions to thousands of IDPs for nearly five months.

Within the UPR Ukraine supported recommendations No. 97.24 to ensure full compliance of the law with international obligations of Ukraine and No 97.59 to continue efforts to combat discrimination. However, the Government, trying to establish control over social benefits for IDPs, ignores them.

### **2.3. Protection of IDPs with disabilities**

Number of IDPs with disabilities is 60,907 people, which is about 4% of IDPs<sup>13</sup>.

**Housing.** Neither plans for evacuation nor resettlement programs took into account the needs of persons with disabilities. They mostly were offered temporary housing in often architecturally inaccessible resort centers, boarding institutions. Their temporary resettlement was not accompanied by a proper level of compensation, so IDPs with disabilities were under threat of eviction.<sup>14</sup> Problems of finding affordable architecturally accessible housing led to the return to NGCA of a significant number of IDPs with disabilities.

**Medical care.** Topical remain obstacles for provision of rehabilitation facilities, medical supplies, including special food, which is compensated largely by local budgets and ignores IDPs with disabilities. People with disabilities who depend on medicines or procedures, including hemophiliacs are in particularly difficult situation<sup>15</sup>.

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<sup>10</sup> As a result DoSPs following by-laws sent IDPs for affixing a stamp to SMS and the SMS, acting in accordance with the amended Law, did not affix such stamps.

<sup>11</sup> State Savings Bank of Ukraine

<sup>12</sup> The CMU Resolution "Some issues of social benefits for internally displaced persons» No. 365 of 07.08.2016

<sup>13</sup> According to Ministry of Social Policy of Ukraine

<sup>14</sup> Media data confirms a significant debt of the governmental bodies to resort centers in Odessa for the settlement of displaced persons with disabilities. As a result, those people in September - November 2016 had to leave institutions <http://korrespondent.net/ukraine/3756202-pereselentsy-ynvalydy-dolzhny-uekhat-yz-sanatoryia-v-odesse-oha>

<sup>15</sup> "The rights of persons with disabilities in situations of armed conflict in the East of Ukraine." Analytical Report of the Ukrainian Helsinki Human Rights Union/Larisa Baida, Pavlo Zhdan, Bogdan Moisa, Evgeniya Pavlova, Miroslav Statkevich / under the general editorship of Arkadiy Bushchenko. / Ukrainian Helsinki

**Employment.** Among common to all people with disabilities problems are: lack of help from relatives, unaffordable housing, housing remote from infrastructure, lack of accessible transport. Acquired possibilities of adaptation at own work place and actually the possibility to work in the specialty were lost at a new place. Their new opportunities have a low chance even compared to other categories of IDPs.

**Social benefits.** Specific obstacles in obtaining guaranteed benefits occur for people with disabilities living in the “line of contact”: the need to constantly prove staying at a specific address (which is necessary for all IDPs who receive social benefits/pensions) become more complicated due to inaccessibility; the need to overcome checkpoints, wait in queues, etc.

Partial compensation for housing and utilities is not differentiated by the depth of impairments<sup>16</sup> and many people do not get this assistance at all.

Additional problems arise during checks of documents: IDPs are called into doubt even for people over 30 years staying in a wheelchair and having disabilities from childhood; MSEC<sup>17</sup> issues a new certificate with status “general disease” instead of “disabled from childhood person”<sup>18</sup>; MSEC requires to provide from NGCA references and extracts starting from childhood, which is impossible.

**Crossing the “line of contact”.** This way lies through the broken bridges and roads, which for the blind or for a person in a wheelchair, for the physically or mentally weak person is extremely difficult and dangerous. The issue of passage without crossing checkpoints for persons with disabilities and other law mobility groups was partially resolved, but the points of heating, toilets arranged at checkpoints are still architecturally inaccessible.

Within the UPR Ukraine received recommendation No. 97.133 to ensure the implementation of laws and other measures to protect the rights of people with disabilities, but the problems of displaced people are not resolved.

#### **2.4. Protection of housing, land and property rights**

A major challenge for IDPs continues to be the issue of housing.

International human rights law stipulates that no one shall be arbitrarily deprived of his property (possessions)<sup>19</sup>. The relevant rules are also enshrined at art. 41, 47 and 48 of the Constitution of Ukraine.

But Ukraine still demonstrates the lack of comprehensive state programs of concessional lending, construction, renovation or acquisition of new housing for conflict-affected population, any mechanisms of restitution or/and compensation for lost property.

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Human Rights Union. - Kyiv, Rumes, 2016. - 126 p.

<sup>16</sup> This has a direct impact on the nature of the costs associated with health care, rehabilitation, assistance.

<sup>17</sup> Medical-social expert commissions, implementing medical and social examination of persons applying for disability determination

<sup>18</sup> MSEC do not communicate with the person himself

<sup>19</sup> Universal Declaration of Human Rights, Protocol 1 to the European Convention on Human Rights and Fundamental Freedoms

Comprehensive State program on support, social adaptation and reintegration of IDPs<sup>20</sup>, which envisages a series of measures aimed at regulation of housing issues for IDPs, was not provided any state funding in 2016 and in 2017. Actual assistance to IDPs in granting land-plots for housing in accordance with the law is not provided.

In March 2017 “Oschadbank” launched the program of preferential crediting for IDPs<sup>21</sup>, but offered conditions do not meet actual needs and real possibilities of IDPs and even deepen negative attitude to the state policy on addressing the housing issue of IDPs. General lack of the security of tenure is accompanied by the cases of the stigmatised attitude of lessors to displaced tenants<sup>22</sup>. This leads to failures in rental housing, generates conflicts at the local level, sometimes at the level of local governmental bodies or public authorities<sup>23</sup>, and discriminatory attitudes at the level of Ukrainian society.

Regulations governing the provision of social housing and housing for temporary use do not guarantee obtaining of social housing for the most socially vulnerable categories of IDPs and IDPs in a difficult situation. Orphans and children deprived of parental care cannot be entered into the housing register upon reaching 16 years.

The share of people who applied for help with temporary housing by regions is on average 7.5%, although independent solving of housing issue by IDPs is very problematic. About 4% of IDPs<sup>24</sup> still live in collective centers (in Kyiv and Kyiv region) and do not plan to move elsewhere.

Citizens of Ukraine who appealed to courts to obtain compensation for their destroyed or damaged property, or because of lack of access to their property, experience difficulties (currently about 50 cases)<sup>25</sup>. As a rule, they face challenges in providing evidence or direct opposition of the judiciary bodies due to the lack of a legal framework for compensation from the state budget. Since the first illegal activities in this area were committed in 2014, the main problem now is the expiry of the statute of limitations, which is 3 years under the legislation<sup>26</sup>.

However, Ukraine made progress by providing the opportunity for certain categories of the IDPs to be enrolled to the housing register<sup>27</sup>. In the end of 2016 the Government had provided simplified conditions for the possibility of obtaining housing in perpetual use for

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<sup>20</sup> The CMU Resolution "On Approval of the Comprehensive public program on support, social adaptation and reintegration of citizens of Ukraine who moved from the temporarily occupied territory of Ukraine and the areas of counter-terrorist operations in other regions of Ukraine for the period till 2017" No. 1094 of 12/16/2015 <http://www.kmu.gov.ua/control/uk/cardnpd?docid=248739241>

<sup>21</sup> <http://www.oschadbank.ua/ua/private/loans/na-zhitlo-dlya-vnutrishno-peremishchenikh-osib/>

<sup>22</sup> As reported by IDPs to human rights groups

<sup>23</sup> This applies to Kharkiv region and Kyiv, according to information of “Luhansk Regional Women’s Legal Defense Public Organization” “Chaika”

<sup>24</sup> "Places of compact settlement of IDPs in Kyiv and Kyiv region": Research of "KrymsOS" NGO <http://krymsos.com/reports/analitichni-zviti-po-vpo/mistsya-kompaktnogo-prozhivannya-vnutrishno-peremishchenikh-osib-u-mkiyevi-ta-kiyivskii-oblasti/>

<sup>25</sup> According to NRC

<sup>26</sup> Civil Procedural Code of Ukraine and the Code of Administrative Procedure of Ukraine

<sup>27</sup> Under the common rule, to the housing register are entered citizens who need better housing, but are registered and permanently reside in certain housing.

IDPs among disabled war veterans, their families and families of perished<sup>28</sup>.

## **2.5. Access to medicine**

One of the basic needs of IDPs still is access to medical services. As a result of occupation of Crimea and the continuing military conflict in Donbas, many IDPs are in a constant state of stress. There are also difficulties related to moving, lack of own housing, job, familiar social circle and uncertainty in life in general. The health of IDPs has deteriorated significantly since their displacement<sup>29</sup>. The most vulnerable are elderly people, single parents, people with disabilities, children.

The majority of IDPs who survived the hostilities require help of a psychologist<sup>30</sup>. Creation of system of such assistance requires additional efforts from the Government. Although international standards enshrine the need for public authorities to provide medical care for IDPs without discrimination as much as possible and as soon as possible, in Ukraine in practice IDPs face problems in sphere of health protection<sup>31</sup>.

Ukraine has not provided adequate conditions for registration or renewal of disability. IDPs with chronic diseases often face serious bureaucratic constraints in this area, particularly during passing through a MSEC. More information on this issue in Chapter 2.3.

IDPs also are not fully provided with prescribed by law free medicines due to the lack of financial resources of local authorities<sup>32</sup>. Part of IDPs has to pay for medicines and services that should be free of charge<sup>33</sup>. Underfunded are programs aimed at treating cardiovascular diseases, cancer, diabetes and other diseases. Besides 40% of IDPs expressed dissatisfaction with medical equipment, technical equipment and quality of service of medical staff in public hospitals and clinics.

## **2.6. Employment**

IDPs employment situation is deteriorating as there are not enough vacancies corresponding to the qualifications of IDPs and because of significant growth of general unemployment in Ukraine over the past two years.

Unemployment among IDPs in 2015 was 21% (IDPs who did not work but looked for job and were ready to start to work). Among the IDPs with higher education the unemployment rate is significantly lower (19.5%) compared to those with secondary or vocational education

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<sup>28</sup> Explanatory note of "KrymSOS" NGO "How to be registered at housing register?"

<http://krymsos.com/settlers/legal-issues/pereselentsi-iz-zoni-ato/nedvizhimost/yak-stati-v-chergu-na-zhitlo/>

<sup>29</sup> According to opinion of people themselves and organizations that are involved in the protection of rights of IDPs.

<sup>30</sup> According to the coalition "Indivisible Ukraine"

<sup>31</sup> Article 12 of the UN International Covenant on Economic, Social and Cultural Rights defined the right of everyone to the highest attainable standard of physical and mental health, and the UN guidelines on internal displacement (Principle 19)

<sup>32</sup> In Ukraine, the legislation provides for the possibility of receiving free or reduced-price medicines prescribed by doctors in the case of outpatient treatment of certain groups of people with certain categories of diseases. This is stated in the CMU Resolution "On regulation of free and reduced-price dispensing of medicines prescribed by doctors in the case of outpatient treatment of certain groups of people and on certain categories of diseases" of August 17, 1998 No. 1303

<sup>33</sup> According to the "CrimeaSOS" NGO



(25.3%)<sup>34</sup>.

At the same time, IDPs are dissatisfied with the state employment services. From March 2014 to February 2016 66,000 IDPs from Crimea, the Donetsk and Lugansk regions applied to the State Employment Service, which is near 5% of the total number of registered IDPs in Ukraine<sup>35</sup>. This demonstrates a critically low level of trust to the State Employment Service of the job seekers, as well as deepening poverty and social exclusion of a certain category of citizens.

## 2.7. Right to education

As of March 2017 the issue of provision of access of IDPs to educational services in Ukraine was partly resolved. For children IDPs additional places in kindergartens and secondary schools were allocated; 18 higher education institutions were moved from Crimea and from Donetsk and Luhansk NGCA<sup>36</sup>; procedure of the admission campaign for students IDPs was simplified<sup>37</sup>; mechanism was improved for verification of educational level and transfer of students from universities in the occupied territory of Ukraine (TOT)<sup>38</sup>; students IDPs were enabled to receive social scholarships<sup>39</sup>.

However, the state does not fully implement guaranteed by the law beneficial conditions of education for students IDPs. The Law on State Support of IDPs and some other categories of students who study at vocational and higher educational institutions<sup>40</sup>, was supported by appropriate program only in late 2016. This program does not fully ensure the implementation of the Law and discriminates IDPs in comparison to other categories of students, setting for the first the lowest level of support.

Yet there are problems with the allocation of additional budget places for study of IDPs in higher educational institutions, provision of places in dormitories for IDP students on completely free of charge basis is absent, and so on.

In addition, the level of material, technical and financial support for secondary educational

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<sup>34</sup> According to the research of the "Center for Employment of free people" NGO (hereinafter - CEFP) conducted in cooperation with the "CrimeaSOS" NGO

<sup>35</sup> EMPLOYMENT OF DISPLACED PERSONS: STATISTICS AND LEGAL ASPECTS - Kyiv: CEFP, Crimea SOS, 2016:

<http://www.czvl.org.ua/blog/2016/05/05/866/>

<sup>36</sup> New legislation was adopted to regulate operations of such institutions<sup>36</sup>; The Law of Ukraine "On Amendments to Some Laws of Ukraine on activities of higher education institutions, research institutions, temporarily displaced from the occupied territories and the settlements in the territory of which the public authorities temporarily do not exercise their authority" of 03.11.2016 No. 1731-VIII

<http://zakon2.rada.gov.ua/laws/show/1731-19>

<sup>37</sup> Order of the Ministry of Education and Science of Ukraine from 24.05.2016 No. 560 "On approval of Procedure of admission to higher and vocational education of persons residing in the temporarily occupied territory of Ukraine", registered in the Ministry of Justice of Ukraine on May 31, 2016

[http://old.mon.gov.ua/files/normative/2016-06-07/5622/nmon\\_560.pdf](http://old.mon.gov.ua/files/normative/2016-06-07/5622/nmon_560.pdf)

<sup>38</sup> TOT under the Law of Ukraine "On the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine" and in this report means the occupied ARC

<sup>39</sup> The government has allowed displaced students to receive social scholarships

<http://krymsos.com/settlers/news/uryad-dozvoliv-studentampereselentsiam-otrimuvati-sotsialni-stipendiyi/>

<sup>40</sup> Law of Ukraine of 14.05.2015 № 425-VIII: <http://zakon3.rada.gov.ua/laws/show/425-19>

institutions, including with the distance learning is extremely unfavorable, which does not allow institutions to function at full capacity. At the same time Ukraine has supported at the past review recommendation No. 97.42 to continue to take measures and programs to promote and protect children's rights, including the right to education.

## **2.8. Political rights**

Approximately 4.5% of the electorate of Ukraine who are IDPs are not able to fully exercise their political rights: to vote in local elections and in single-mandate districts during national parliamentary elections<sup>41</sup>. This indicates violation of principle of non-discrimination in ensuring equal rights, freedoms and opportunities and slows the process of integration of immigrants to new local communities.

The Constitution, the Laws of Ukraine and international standards define equality of rights of all citizens<sup>42</sup>. The Committee of Ministers of the Council of Europe (2006) and Parliamentary Assembly Recommendations 1877 (2009) define the obligation of States to ensure by law the rights of IDPs during the elections (including local).

One of the recommendations of Parliamentary hearings on IDPs' rights, which took place in February, 2016<sup>43</sup> is to develop mechanism for implementing the political rights of IDPs, for bringing national legislation in line with international standards in the spheres of electoral process and policy concerning IDPs.

Within the UPR Ukraine has received and supported recommendations No. 97.50 to pay more attention to awareness raising of Ukrainian citizens on their rights and the involvement of the society in making important decisions, No. 97.24 to ensure full compliance of the legislation with international obligations of Ukraine and No. 97.59 to continue efforts to combat discrimination.

However, for three years no positive changes in the sphere of protection of political rights of IDPs happened, although the position of human rights NGOs and Parliament

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<sup>41</sup> In the parliamentary elections in October 2014, all IDPs (about 500 000 people as of October 2014), had no right to elect a deputy of the Verkhovna Rada of Ukraine in majority district at the new place of residence. In October 2015 in local elections, 1,345,100 IDPs did not participate in the election and failed to elect local councils deputies.

<sup>42</sup> Article 38 of the Constitution of Ukraine states that citizens have the right to participate in public affairs, at national and local referendums, to freely elect and be elected to state and local governments. Article 24 of the Law of Ukraine "On the rights and freedoms of internally displaced persons" states that IDPs enjoy the same rights and freedoms under the Constitution, laws and international treaties of Ukraine, as other citizens of Ukraine, permanently residing in Ukraine. Discrimination against them in realization of any rights and freedoms on the ground that they are IDPs is prohibited. UN Guiding Principles on Internal Displacement within the country prohibit discrimination against IDPs at using their right to participate on equal terms in the affairs of the community, the right to vote and participate in public and civic affairs, including the right of access to the resources needed to implement this right.

Article 2 of the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine"

<sup>43</sup> The Decree of the Verkhovna Rada of Ukraine of 31.03.2016 "On recommendations of Parliamentary hearings "State of the observance of rights of internally displaced persons and citizens of Ukraine residing in the temporarily occupied territory of Ukraine and in the temporarily uncontrolled territory in the area of anti-terrorist operation": <http://zakon3.rada.gov.ua/laws/show/1074-19>

Commissioner for Human Rights<sup>44</sup>. On March 27, 2017, Draft Law No 6240 on Amendments to Certain Laws of Ukraine Related to Electoral Rights of Internally Displaced Persons and Other “Mobile” Groups of Ukrainian Citizens was registered at the Verkhovna Rada. The Draft Law was prepared by the Civic organization “Public holding “Group of Influence” and Civil Network OPORA, in consultations with the Central Election Commission, representatives from the Verkhovna Rada, Ukraine’s internally displaced community and other key stakeholders.

Amendments suggested by activists provide that voters will be able to apply with a reasoned statement to the authority of the State Register of Voters to determine his/her new voting address, regardless of the registered place of residence. In case the amendments are adopted, IDPs’ voting rights will be properly protected. Ability to change voting address at the place of actual residence will be available also to other citizens moving within the country, which will help to reduce conflict in the society and raising the level of public participation in the vote in the elections.

The Draft Law No 6240 seeks to enfranchise the millions of Ukrainians who are displaced by conflict or are voluntarily residing in places that differ from their registered places of residence.

## **2.9. Recognition before law**

According to paragraph 20 of UN Guidelines on displaced persons within the country, everyone has the right to recognition before law, which includes obtaining the documents necessary for his/her respect and implementation of legal rights. These documents are, in particular, passport, birth certificate, marriage certificate, etc.

Currently, Ukraine does not accept any documents issued by so-called “LPR” and “DPR”<sup>45</sup>, including documents confirming fact of birth or death. On the other hand, in GCA<sup>46</sup> there are no verification (confirmation) procedures of issued in NGCA documents, that in some situations makes it impossible to exercise rights, such as social protection and receiving aid for child birth, pension, inheritance and so on.

Unfortunately, Ukraine has not created administrative (extra-judicial) procedure for recognition of certificates of birth and death, which occurred in the TOT and NGCA of the Donetsk and Luhansk regions and recording these facts by civil registration bodies. Ukrainian legislation sets only a judicial procedure for establishing these facts<sup>47</sup>.

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<sup>44</sup> According to the Parliament Commissioner for Human Rights, this situation violates the principle of non-discrimination, both in terms of equality of rights and freedoms and equality of opportunities<sup>#</sup>, constitutes indirect discrimination on grounds of residence and belonging to IDPs and contradicts to international legal standards, the Constitution, laws of Ukraine, and Ukraine's commitments to ensure sustainable integration of IDPs at the place of displacement

<http://www.ombudsman.gov.ua/ua/all-news/pr/12915-nm-vidkrite-zvernennya-upovnovazhenogo-verxovnoii-radi-ukraiini-z-prav-ly/>

<sup>45</sup> Self-proclaimed Donetsk People's Republic and Luhansk People's Republic

<sup>46</sup> Government-controlled area

<sup>47</sup> This procedure has been simplified in February 2016, but it has some significant drawbacks, including the need to pay the court fee (as of now it is about \$12). At that, courts rather formally refer to making decision in

Another issue is re-issuing a passport of citizen of Ukraine by IDPs and residents from TOT and NGCA of the Donetsk and Lugansk regions if the document was lost for various reasons (destroyed during the shelling, stolen, damaged, etc.). In this case, re-issuance of passport procedures are extremely complicated. First, it is possible only if there is the certificate of IDP registration<sup>48</sup>. Second, because of the actual lack of a centralized database of persons living in mentioned territories for the issuance of passport of citizen of Ukraine it is required to undergo a procedure of identification<sup>49</sup>. It is usually quite a long and complicated procedure for IDPs, as most of their relatives, colleagues and neighbors still live in the occupied or uncontrollable by authority territories.

### **3. Conclusions and Recommendations**

Having analyzed the problems, which throughout the period of duration of the conflict IDPs and residents of temporarily occupied, uncontrolled territories of the Donetsk and Lugansk regions faced and continue to face with, we can conclude that Ukraine, unfortunately, insufficiently fulfills its positive and negative obligations towards its citizens who are in really difficult circumstances caused by the aggression of the Russian Federation. The level of security, respect and protection of rights of these categories of people, despite a number of positive developments, is unsatisfactory and requires quality improvement.

On behalf of the civic sector we would like to highlight a few basic recommendations:

#### **To Government and Parliament of Ukraine:**

1. Finance and properly implement “Comprehensive National Programme for Support, Social Adaptation and Reintegration of Citizens of Ukraine Internally Displaced from the Temporarily Occupied Territory of Ukraine and Anti-Terrorist Operation Conduct Area to Other Regions of Ukraine for the period until 2017”, approved by the Cabinet of Ministers of Ukraine on December 16, 2015 No.1094.
2. Implement the Recommendations of the parliamentary hearings “Observance of Rights of IDPs and nationals, residing at TOT and NGCA at anti-terrorist operation area” of February 17, 2016, approved by the Verkhovna Rada of Ukraine on March 31, 2016 No. 1074-VIII.
3. In the shortest time to develop a procedural mechanism for establishing and recording damage, the amount of losses (property damage) caused to individuals as a result of the armed conflict in the East of Ukraine, to develop mechanism for their compensation; to develop amendments to legislation for extension (conciliation) of the statute of limitation for cases related to violation of property rights in the context

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this category of cases, and establish the facts of birth or death under the documents issued in these territories usually without additional checking, calling witnesses, etc.

<sup>48</sup> In the absence of such certificate the person who lived in the TOT or in the uncontrolled territories of the Donetsk and Lugansk regions, will be refused to re-issue a passport.

<sup>49</sup> The procedure, which includes interviews with relatives, neighbors or any other persons (at least three) who can attest to the applicant's identity when there are no other documents that could confirm identity

of conflict.

4. Introduce a non-judicial (administrative) procedure of recognition issued in TOT and NGCA of Donetsk and Luhansk regions documents certifying the fact of birth, marriage or death.
5. Ensure the issuance of passports for IDPs and persons residing in TOT and NGCA of Donetsk and Luhansk regions, regardless of whether a person is registered as an IDP or his/her place of residence.
6. Ensure the implementation of political rights for IDPs at the place of their actual residence. Vote for the Draft Law No 6240.
7. Develop and approve a mechanism for payment of pensions and social payments to citizens residing in NGCA in Donetsk and Luhansk regions.
8. Provide a mechanism for implementation of the legislation regarding launching programs of preferential lending for the construction or purchase of housing; ensure the formation of funds for social housing and housing funds for temporary accommodation on the account of the state and local budgets, charitable aid from various sources.
9. Provide funding from the state budget to ensure proper formation, maintenance and administration of the UIDB of IDPs; ensure proper functioning of the UIDB throughout Ukraine, including access to the database for NGOs and volunteers, IDPs and MTOT.

#### **To Government of Ukraine:**

1. Abolish the Government Resolution No. 365 “Some issues of social benefits for IDPs”, as such, that does not correspond with the Laws of Ukraine and its international commitments.
2. Amend the Government Resolution No. 505 “On providing a monthly targeted assistance to IDPs to cover living expenses, including housing with utilities”, linking the amount of targeted assistance to growing subsistence level, which will harmonize calculation of all types of social assistance.
3. Amend the Government Resolution No. 637 “On social benefits for IDPs” to exclude provision that an IDP certificate is an obligatory condition for pension and social benefits payment; separate procedures for payment of targeted assistance to IDPs under the Government Resolution No. 505 from other social benefits and pensions.
4. Abolish the Government Resolution No. 167, which states that all social payments should be made exclusively through the accounts and facilities of “State Savings Bank of Ukraine”.
5. Provide differentiation of social assistance paid to IDPs considering health problems and extent of health loss.
6. Initiate for IDP families with persons with disabilities, including mobility,

vision, hearing and intellectual psychosocial disorders, government program of lending for acquisition and construction of housing.

7. Transfer control over formation, establishment and maintenance of the UIDB to MTOT.

**To local authorities in case of humanitarian emergencies<sup>50</sup>:**

1. Ensure distribution of the humanitarian aid to the place of residence and stay of people with disabilities, elderly people and people with substantial loss of health (approximately 15% of the population).

2. Interact with local organizations working for persons with disabilities as carriers of information about persons in need of humanitarian assistance, but for health reasons are not able to get it at the appropriate point.

3. Organize in settlements additional separate points of distribution of humanitarian aid to persons with disabilities and elderly people.

4. Ensure distribution of humanitarian aid to residents of boarding institutions.

**To the central executive bodies, local state administrations, local authorities:**

1. Ensure informing of IDPs about how to obtain benefits and participate in state programs.

2. Use data on the number and needs of IDPs at allocation of funding for health and education and the formation of local budgets;

3. Create an emergency fund of medicines for socially vulnerable people;

4. Simplify mechanism of re-issuance of medical records and registration or re-registration documents on disability.

5. To the Ministry of Defense of Ukraine to initiate the process of developing regulations on possessing (expropriation) of private property, land for the defensive purposes, and informing affected people about that.

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<sup>50</sup> Situations similar to Avdiyivka.