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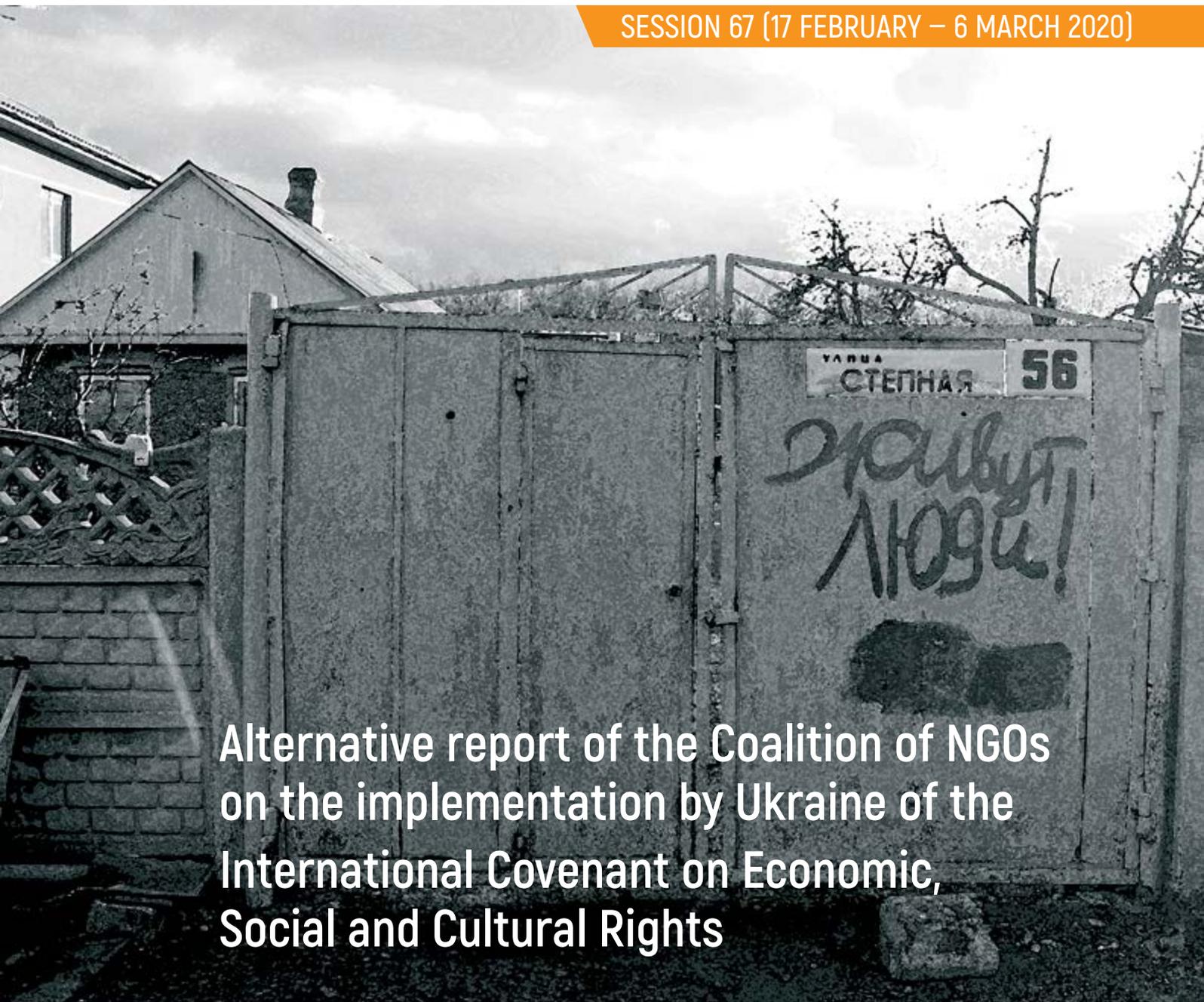


CRIMEAN
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GROUP



ENSURING THE OBSERVANCE OF SOCIO-ECONOMIC RIGHTS OF THE CONFLICT-AFFECTED POPULATION IN UKRAINE

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Alternative report of the Coalition of NGOs
on the implementation by Ukraine of the
International Covenant on Economic,
Social and Cultural Rights



In October 2019, Ukraine submitted its seventh periodic report, in which it responded to questions posed by the Committee on Economic, Social and Cultural Rights on October 18, 2018. A considerable number of these issues concerned the observance of economic, social and cultural rights of the conflict-affected population in Ukraine. The state's replies, however, do not provide the complete picture regarding the observance of the rights of such groups as IDPs and residents of the temporarily occupied territories of Crimea and Donbas as well as areas located near the war zone (the so-called «grey zone»).

This alternative report was prepared by an informal Coalition of non-governmental organizations involved in the protection of conflict-affected persons, including IDPs and residents of the temporarily occupied territories. The authors have considerable experience in drafting and advocating for new legislation related to the protection of IDPs' rights, participate in working groups of relevant ministries, provide significant social and legal assistance to conflict-affected people and provide coverage of the events that take place in the temporarily occupied territories.

The Coalition includes:

- NGO Donbas SOS, <http://www.donbasssos.org>
- NGO Crimea SOS, <http://krymsos.com/>
- Charitable fund Right to Protection, www.r2p.org.ua
- Charitable fund Vostok SOS, <http://vostok-sos.org/>
- NGO Civil holding GROUP OF INFLUENCE, <https://www.vplyv.org.ua/>
- The Radnyk programme implemented by the charitable fund Stabilization Support Services, <http://radnyk.org>, <https://sss-ua.org>
- NGO ZMINA Human Rights Center <https://org.zmina.info/>
- NGO Crimean Human Rights Group <https://crimeahrg.org/>

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ABBREVIATIONS

ARC	Autonomous Republic of Crimea
ATO/JFO	anti-terrorist operation, joint forces operation
IDP	internally displaced person
SBGSU	State Border Guard Service of Ukraine
HEI	higher education institution
CMU	Cabinet of Ministers of Ukraine
MVTOT	Ministry for the Veterans' Affairs, Temporarily Occupied Territories and Internally Displaced Persons of Ukraine
PFU	Pension Fund of Ukraine
GCA	Government of Ukraine-controlled areas
CRR	civil records registration
TOT	temporarily occupied territory of Ukraine
DLSP	Department of Labour and Social Protection

General observations

i. In 2019, Ukraine had presidential and parliamentary elections, which resulted in a complete overhaul of government in the country. After its appointment, the new CMU reorganized the Ministry for Temporarily Occupied Territories and Internally Displaced Persons established in 2016 into the Ministry for the Veterans' Affairs, Temporarily Occupied Territories and Internally Displaced Persons. Former Deputy Minister of MVA Oksana Kolyada was put in charge of it.

ii. In September 2019, the CMU adopted a programme of activities, which was approved by the Parliament¹. In this programme, the issues of overcoming the effects of the armed conflict and assisting those affected by it did not get the attention they deserve. Thus, out of 15 ministries, only the MVTOT chose as one of its goals the following: to reintegrate IDPs and NGCA residents of Donetsk and Luhansk Oblast and ARC into the Ukrainian sphere (goal 5.3)².

iii. It should be stressed that the Ministry of Social Policy - the central executive body responsible for state social policy, including social protection of IDPs³, neither set appropriate priorities for itself nor included appropriate measures in the Government's programme. Thus, although the fact that the MVTOT was charged with forming and implementing policies on the reintegration of TOT residents and veterans as well as with seeking out long-term solutions for IDPs' issues is certainly a positive move, the absence of the issue of ensuring social protection of such persons on the agenda of both ministries is a critical oversight. In light of this, there is a high and realistic risk that the issue of ensuring social protection of conflict-affected people and addressing their social needs will be ignored by the Government.



iv. In late 2019 there was a significant decrease in funding for international humanitarian organizations providing humanitarian and legal aid to conflict-affected persons. This in turn is resulting in less funds for international and national NGOs dealing with conflict-related issues. One of the consequences of this has been decreased access to legal aid for IDPs in all Ukrainian regions, except for Donetsk, Luhansk and Kherson oblasts. In Donetsk and Luhansk oblasts, there are now fewer opportunities for the renovation of buildings damaged by shelling, including roof and window replacement, etc.

¹ CMU programme of activities. Link: <https://program.kmu.gov.ua/>

² <https://program.kmu.gov.ua/meta/vnutrisno-peremiseni-osobi-ta-meskanci-timcasovo-okupovanih-teritorij-doneckoi-ta-luganskoi-oblastej-ta-ar-krim-so-reintegrovani-do-sucasnogo-ukrainskogo-prostoru>

³ CMU Resolution 423 of 17 June 2015 "On the Adoption of Regulations for the Ministry of Social Policy of Ukraine"

Host communities



Regarding paragraph 1 of the question list (E/C.12/UKR/QPR/7)

1. According to the Ministry of Social Policy, 1,434,198 IDPs from the NGCA of Donetsk and Luhansk oblasts and ARC were registered as of January 13, 2020⁴. However, the actual numbers of IDPs may differ greatly from the official figures. There are several reasons for this. The main one is the state policy that requires TOT residents to get registered as IDPs if they want access to social protection and administrative services. This forces people that remained in the TOT to register as IDPs to be able to get pensions, medical care, banking and other services in GCA.

2. IDPs are not considered members of the territorial communities where they live. Being a member of a territorial community in Ukraine must be confirmed through registration of one's place of residence in that community. However, the vast majority of IDPs do not register their new homes as their official place of residence (they only have IDP certificates, which serve, among other things, as a proof of residence address), because they lack the official means to do so or they do not wish to lose official links with their old home.

⁴ <https://www.msp.gov.ua/news/18131.html>

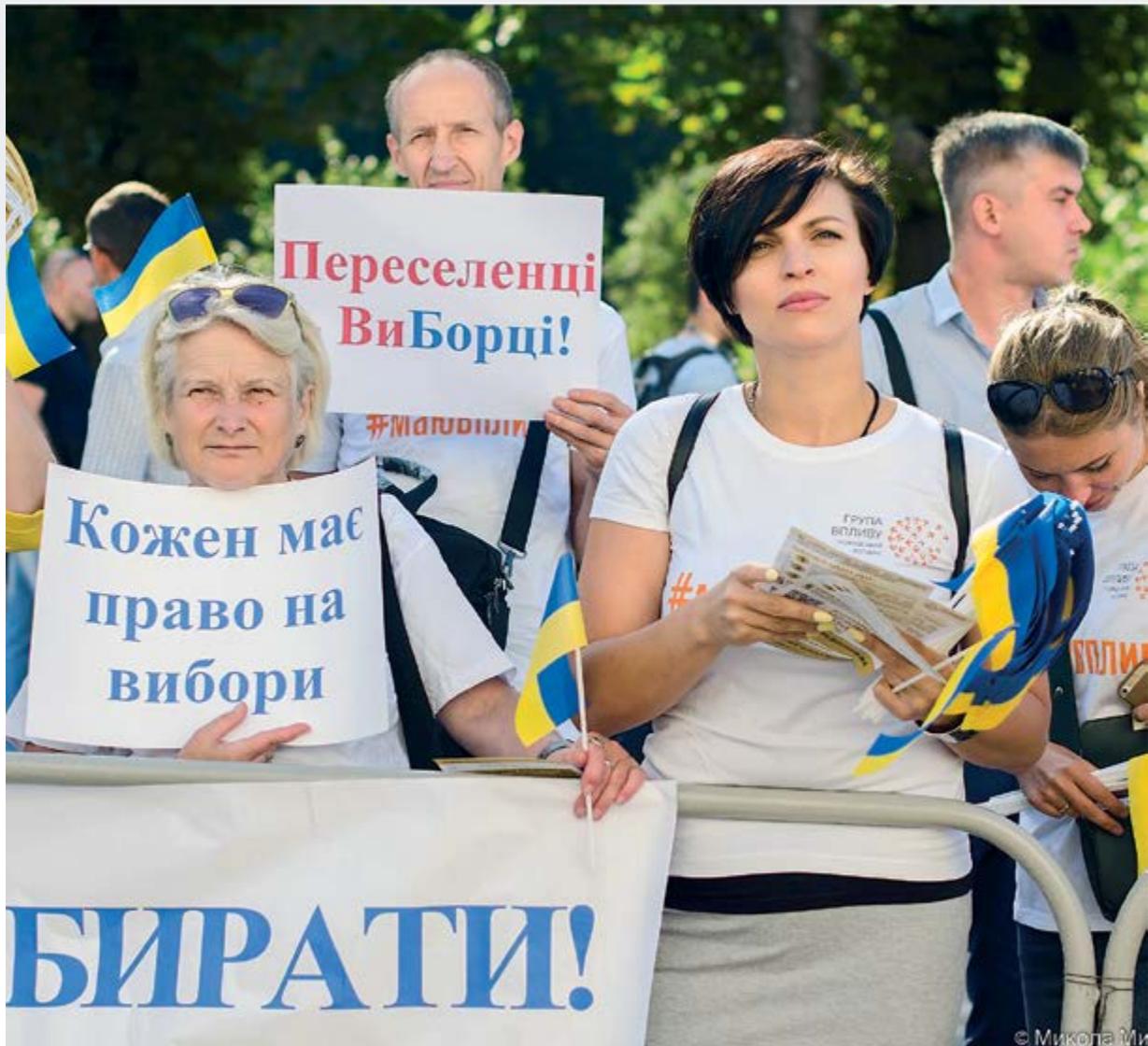
Overall there are at least 6.8 million people in Ukraine living in a place other than their official place of residence⁵, which shows the ineffectiveness of the registration system, as well as the fact that it cannot serve as reliable proof of a person's belonging to a territorial community.

3. Thus, those IDPs that are not considered members of their new territorial communities in terms of their official place of residence are barred from accessing half the instruments of local democracy. In particular, such IDPs are unable to participate in general meetings and public associations, to make use of electronic petitions, or to take part in public hearings and local initiatives. At the same time, the number of IDPs registered in a territorial community is considered in the formation of local budgets, including the funds for educational and healthcare institutions⁶.

4. For nearly six years, IDPs had had no law-established way of voting in local elections, which constituted direct discrimination. On December 19, 2019, the Parliament adopted the Electoral Code of

⁵ according to the study "Registration system in Ukraine: its impact on the exercise of human rights and vital interests" (2018). Link: <https://bit.ly/2RwhAfO>

⁶ Article 24-2 of the final and transitional provisions of the Budget Code of Ukraine



Ukraine, which allows, following a justified application, changing a voter's voting address to other than the official place of residence, provided that the actual place residence is confirmed by relevant documents (e.g. rent agreement, IDP certificate, business certificate, real estate title, etc.). These changes, which are coming into force on July 1, 2020, will allow all voters that live outside their official place of residence, including IDPs, to vote in all types of elections, both national and local, without discrimination. However, in order to fully implement this provision of the Electoral Code, the Central Election Commission must, within six months from the entry into force of the Electoral Code, bring its legal acts in line with it, particularly by developing a procedure for changing the voting address, as well as inform the public about this new opportunity to exercise one's right to vote. The next local elections in Ukraine will take place in October 2020, which doesn't leave much time for adopting the new procedure, informing voters and effecting the change of IDPs' voting addresses, which is likely to cause problems for a lot of voters when they try to exercise their voting rights at the new place of residence.

5. According to a new survey conducted by the IOM⁷, the share of IDPs who reported that they were integrated into their community was 51%, another 40% of IDPs said they were partially integrated. The main criteria of successful integration given by IDPs included housing (88%), steady income (75%) and employment (51%). At the same time, 6% of IDPs complained of discrimination or unfair treatment on account of their IDP status. This sentiment mainly concerned such areas as healthcare (37%), employment (31%), housing (30%) and relations with the local population (25%).

⁷ National Monitoring System report on the Situation of Internally Displaced Persons - June 2019 // <https://reliefweb.int/report/ukraine/national-monitoring-system-report-situation-internally-displaced-persons-june-2019>

Internally displaced persons



Regarding paragraph 2

6. In November 2017, the Government adopted the *IDP Integration and Durable Solutions Strategy 2020*⁸ aimed at addressing issues related to the internal displacement of Ukrainian citizens and its effects, including the issues concerning host communities, creation of effective state administration instruments, as well as satisfaction of the urgent and long-term needs of IDPs. However, the Strategy lacks a clear time frame and performance indicators. The chosen strategic areas (ensuring property rights; strengthening IDPs' capacity to provide for themselves and enjoy medical and educational services; supporting host communities) are mainly focused on small-scale activities rather than strategic goals. The Strategy emphasizes that internal displacement does not involve a change of status and that the search for long-term solutions is a priority for the Government. However, this remains an empty claim. Some issues found no reflection in the Strategy. Thus,

the Strategy focuses on the issue of integration as a long-term solution, although the right of return is also mentioned. The Strategy has no mention of the issues of non-discrimination, identification and documents confirming legal status. Also absent were the issues of pensions for TOT residents (even though many of them are registered as IDPs), freedom of movement and protection of IDPs with special needs.

7. The Action Plan on the implementation of the Strategy was only adopted in November 2018⁹. Between 2018 and 2020, the state budget provided no separate funding for it, so the Plan had to be implemented at the ministries' expense. In addition, with the way the Action Plan was designed, even its proper implementation would have been insufficient to address the main problems faced by IDPs, namely those associated with housing, pensions and social benefits, employment and healthcare.

⁸ CMU Resolution 909-r of 15 November 2017

⁹ CMU Resolution 944-r of 21 November 2018



Regarding paragraph 2 (a)

8. In 2015, the Law on Employment of the Population¹⁰ was amended to include measures aimed at improving the IDPs' employment situation, in particular:

- a) reimbursement of expenses associated with moving for a job for registered unemployed IDPs (if the place of work is in another city), as well as certain types of medical examinations if required by the hiring procedure;
- b) reimbursement of employers' cost of paying wages (no higher than average wage) to registered unemployed IDPs (for 6 months after hiring);
- c) for employers that hire registered unemployed IDPs for at least twelve months, reimbursement of expenses associated with the retraining and professional advancement courses of the new employees.

9. As part of the above measures, between 2015 and 3 quarters of 2018, the Government spent UAH 72.5 million to support IDP employment. Most of the funding was spent in Donetsk, Kharkiv, Luhansk, Dnipropetrovsk and Kyiv oblasts as they are leaders in the employment of IDPs. All other

oblasts received less than 3% of the funds. Almost all payments provided by employment centres concerned reimbursement of employers' expenses for hiring IDPs. The number of applications for other types of support was insignificant¹¹.

10. The total number of registered unemployed IDPs is 69,537. Of these, 23,735 have been employed, with 3,324 IDPs - through reimbursement of employers' cost of paying wages. At the same time, the number of IDPs that turned to employment centres in their job search was insignificant compared to their total numbers - 1.21% for the 5 oblasts with the largest concentration of them; 2.84% for the rest of the oblasts, putting this figure at 1.6% overall¹².

11. The reasons for such a low number of IDPs that have benefited from state support with employment is insufficient effort put into informing IDPs and employers about these opportunities. There's also the issue of the low number of job-offers and the fact that many of them do not meet the needs of the candidates. Overall, we can conclude that the measures taken by the State are insufficient since the key challenges (lack of positions that match peoples' qualifications, the need to change specialization, etc.) are not covered by these measures.

¹⁰ Article 24-1, the Law of Ukraine "On Employment of the Population" no. 5067-VI of 5 July 2012

¹¹ http://www.donbasssos.org/digest_pracevlashtyv_vpo/

¹² figures for the period between 2015 and 3 quarters of 2018

Regarding paragraph 2 (b)

12. In June 2016, the CMU adopted Resolution 365¹³, approving two procedures that govern the assignment, resumption and suspension of social and pension benefits for IDPs. The procedures provided for periodic inspections at the IDPs' actual place of residence, their duty to inform DLSP bodies about a change of residence within ten days, additional inspections following information provided by the Security Service of Ukraine, Ministry of Finance and SBGSU, as well as general and special conditions for the suspension and resumption of benefits (thus, if an IDP certificate gets invalidated, it takes 6 months to resume payments).

13. This Resolution resulted in widespread suspension of IDPs' social benefits and pensions, which in turn led to numerous lawsuits. The courts repeatedly stressed in their rulings that the existing regulation system for social and pension payments for IDPs is not in line with Ukrainian law as well as the international treaties that Ukraine is party to. On May 3, 2018, in its model case no. 805/402/18¹⁴, the Supreme Court of Ukraine declared application of the provisions of Resolution 365 for suspending IDPs' pensions and social benefits unlawful. In addition, on July 4, 2018, the ruling of the Kyiv Administrative Court of Appeals in the case no. 826/12123/16¹⁵ came into force that abolished certain provisions of resolutions 365 and 637¹⁶ on inspections at the IDPs' actual place of residence/stay as a prerequisite for receiving social benefits as discriminating and unconstitutional. However, even though these provisions have been abolished, the practice of such inspections continues to this day. Moreover, the current text of Resolution 365 states that social benefits are granted or resumed on the basis of a report



on examination of a family's living conditions, which is only prepared on the basis of an inspection at the place of residence.

14. In April 2018, the CMU passed amendments to Resolution 365¹⁷, according to which there must be a special procedure for the payment of pensions resumed after suspension. This procedure has not been elaborated as of 20 January 2020, so IDPs are not receiving the debts accumulated on their pensions.

15. Numerous additional mechanisms for controlling payments for IDPs are forcing people to refute IDP certificates altogether. This, however, results in the suspension of pensions and social benefits.

16. Of note, there is the issue of pensions for IDPs from Crimea. The PFU uses a special procedure for granting/resuming pensions for this category of IDPs that de jure governs the issue of pensions for citizens of Ukraine residing in the ARC and Sevastopol¹⁸.

17. In order to resume (grant) pensions to IDPs from Crimea, local PFU bodies in GCA, upon receiving an appropriate application from a person, send a request for their pension file to Russia's pension authorities. To justify these actions, the

¹³ CMU Resolution 365 of 8 June 2016 "Certain Issues Related to the Provision of Social Payments to Internally Displaced Persons"

¹⁴ https://supreme.court.gov.ua/supreme/inshe/zrazkovi_spravu/zr_rish_805_402_18

¹⁵ <https://zakon.rada.gov.ua/rada/show/v2123805-17#n15>

¹⁶ CMU Resolution 637 of 5 November 2014 "On the Provision of Social Payments to Internally Displaced Persons"

¹⁷ CMU Resolution 335 of 25 April 2018

¹⁸ CMU Resolution 234 of 2 July 2014



PFU refers to the Agreement on Pensions between Ukraine and Russia¹⁹. However, this practice is a violation of the law, because the above agreement applies to Ukrainian citizens whose permanent place of residence is located in Russia. So, since the ARC and Sevastopol are Ukrainian territory, the Agreement does not apply to Crimeans. Furthermore, the applicants are also required to provide a declaration confirming that they do not hold Russian citizenship, as well as a request for the PFU to ask Russia for their pension file. On top of these inquiries, the PFU is providing the aggressor with personal information about Ukrainian citizens that left the occupied Crimea, including their new place of residence. According to human rights activists, Ukraine has in this way provided Russia with the personal information of soldiers and combatants participating in the ATO/JFO. The person applying for a pension must wait for their paper file to arrive from the occupied Crimea through Russia's pension authorities, which takes from 3 to 12 months. During all this time the issue is not even being considered, leaving the applicant with nothing to live on. Also, upon receipt of the pension file along with the documents on suspension of their pension in the ARC, the pension is resumed not from the date of applying to the PFU but from the date of its suspension in Crimea if the person was receiving one there.

¹⁹ Agreement on the Guarantees for the Rights of the Citizens of State Parties to the Commonwealth of Independent States in the Field of Pensions of 13 March 1992

Regarding paragraph 2 (c)

18. In 2017-2019, several legislative acts were adopted concerning housing programmes for IDPs, including temporary and affordable housing programmes for IDPs that took part in the ATO/JFO. Most of these programmes involve monetary reimbursement from local authorities or subsidies from the state budget.

19. In August 2019, amendments were made to CMU Resolution 769 on financing measures that support acquisition of temporary housing by IDPs at the 70/30 ratio²⁰. Local governments buy homes and rent them to IDPs for one year with the possibility of extension. In 2019, about UAH 30 million was earmarked for this programme. During 2017-2018, about 600 IDPs were provided with temporary homes.

20. The 2020 state budget provides for preferential mortgage loans, granted by a special fund through financial assistance programmes and grants from the European Union, foreign governments, international organizations and donor institutions, as well as the return of loans previously granted to IDPs, which could point to the programme's long-term nature. During a three-day application period for this programme in December 2019, the Youth Housing Assistance Fund received 6,678 applications from

²⁰ 70% from the state budget, 30% from local budgets



IDPs, which does not reflect the real demand for mortgage loans due to the short application window. The total amount of funding was UAH 200 million. In light of these conditions and funds, only 198 ATO participants and IDPs received preferential mortgage loans, which is not nearly enough.

21. In June 2019, the Government empowered²¹ local governments and civil-military administrations to establish temporary housing stock for IDPs. It is envisaged that local authorities will form this stock by, for example, building new homes, renovating hostels, converting non-residential premises into residential ones and purchasing homes on subsidies from the state budget. Such housing will be considered municipal property and will be provided to IDPs for temporary use only (these homes may not be privatized, divided, exchanged, etc.). A scoring system was introduced for evaluating each IDP family in order to decide on the order of priority. This was done to ensure that the most vulnerable groups (people with disabilities, the elderly, large families, etc.) will be the first to get their homes. Unfortunately, there has been no information on the establishment of such stock by local authorities.

22. Despite the existence of legislation on temporary housing for IDPs, its implementation has encountered serious problems, such as poor state

of the available homes, lack of residential premises for renovation and repairs, and lack of state funding for housing programmes. In addition, many local governments still have not established appropriate committees, and without those IDPs are unable to apply for a home.

23. An important part of addressing IDPs' housing needs involves the creation of effective mechanisms for providing them with compensation for destroyed housing. In July 2019, the Government passed changes to the mechanism for providing compensation for housing destroyed as a result of military emergency caused by the armed aggression of the Russian Federation²². However, the new mechanism has several drawbacks that make it impossible to implement. For example, the right to receive financial compensation is granted to persons whose home was destroyed by shelling and who remained at their old settlement of residence. This wording essentially deprives the IDPs who left their locality of the right to be compensated, making it impossible for them to use the above mechanism. In light of this, the reorganized MVTOT started working on amendments to the relevant document and consulting representatives of NGOs that focus on helping IDPs. As of 2020, the budget for this state programme is UAH 40 million..

²¹ CMU Resolution 582 of 26 June 2019

²² CMU Resolution 623 of 10 July 2019

Situation in the temporarily occupied territories

Regarding paragraph 3 (a)

24. The issue of establishing an accessible procedure for registering the birth of children born in the TOT is very important. For children, this means being registered at birth and getting a name. The lack of a birth certificate prevents access to many public services, including healthcare, education, social benefits, etc. It can also cause difficulties when confirming citizenship (especially for children born in the NGCA of Donetsk and Luhansk oblasts).

25. In February 2018, the Parliament passed a law²³ which states, among other things, that documents confirming birth and death that occurred in the TOT are exempted from the general rule of non-recognition of documents issued by de-facto authorities. This essentially means that there must be an administrative procedure that would require a person to apply to a CRR body using an appropriate form on state registration of birth/death as well as the document issued in the TOT. The law does not contain any intermediate stages (e.g. going to court or a commission, etc.). As of January 20, 2020, this provision of the law has yet to be implemented.

26. In practice, there is only one way to get a birth certificate for a child born in the TOT - through a court in GCA. It should be noted that this procedure has been simplified as of February 2016 compared to the court procedure in other types of cases. The simplification concerns the determining of jurisdiction as well as the establishing of the obligation to examine a case without delay and to execute a decision immediately. However, existing case-law reveals a number of serious drawbacks in the court procedure. These include, in particular, lengthy proceedings (a case takes from several days to months); the need to get a CRR body's rejection to issue a birth certificate; the cost (court fees, lawyers, notaries, travel expenses, etc.), the need for the applicant to travel all the way from the TOT several times. As a result, no more than



37% of children born in the NGCA of Donbas and only 13.5% of those born in Crimea after 2014 have obtained Ukrainian birth certificates.

27. The courts currently serve as a placeholder for an administrative procedure: since the courts are objectively limited in their ability to verify the circumstances of their cases, they have to make decisions based on the information from documents issued in the TOT that confirm the birth of a child. Such is the established case-law, and it is based on that of the ECtHR. Cases on establishing births that occurred in the TOT put a significant burden on the judicial system. Since February 2016, 42,993 court decisions were delivered on recognizing births and 63,205 - on deaths that occurred in the TOT.

28. In 2017, changes were made to the procedure for confirming births outside a healthcare institution²⁴. These changes introduced a procedure for confirming births that occurred in the areas where state authorities temporarily do not exercise their powers (certain areas of Donetsk and Luhansk oblasts). This procedure involves confirmation of births by special commissions based on examination of the mother and a child, potential visits of doctors to the TOT, DNA tests, etc. The procedure has not yet been implemented, and neither have the commissions been formed.

²³ Part 3, Article 2 of the Law of Ukraine «On the Details of State Policy for Ensuring State Sovereignty of Ukraine in the Temporarily Occupied Territories of Donetsk and Luhansk Oblasts»

²⁴ CMU Resolution 9 of 9 January 2013



Regarding paragraph 3 (b)

29. In 2018, the Supreme Court delivered a ruling in a model case concerning the resumption of pensions and payment of arrears to IDPs. As a result, first instance courts issued about four thousand decisions in similar cases²⁵. However, this did nothing to help the plaintiffs: pension debts have not been paid in 90% of these cases, according to the Right to Protection. PFU bodies, in defiance of the law, are refusing to comply with court decisions, citing the absence of a special procedure on returning pension debts²⁶.

30. According to the PFU, its bodies were ordered by courts to pay UAH 543.1 million to IDPs in 2019 alone, and only UAH 43.0 million of this money has actually been paid. PFU's total debt in such cases was UAH 599.8 million as of June 1, 2019 (taking into account unpaid sums from 2018 cases).

31. As of 2019, at least 40 pensioners who applied to a court, had positive decisions but died prior to their execution²⁷.

32. In November 2019, a bill “On Amendments to Certain Laws of Ukraine concerning the Exercise of the Right to Pension” was registered in the Parliament (no. 2083-d)²⁸. It should create a mechanism for providing pensions to TOT residents as well as additional mechanisms for protecting their right to receive a pension. As of January 1, 2020, the bill received the support of the Parliamentary Committee on Social Policy and Protection of Veterans' Rights and was put on the Parliament's agenda.

²⁵ According to Donbas SOS <http://www.donbasssos.org/dydzhest-365/>

²⁶ see para 14

²⁷ According to Right to Protection, which provides secondary legal aid in cases on resumption of pensions for TOT residents

²⁸ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67473

Regarding paragraph 4

33. Right now there is no effective procedure for providing pensions to TOT residents - they are only able to receive payments in GCA if they register as IDPs. After such registration, Article 12 of the Law of Ukraine “On Ensuring the Rights and Freedoms of IDPs” becomes applicable to them, which allows for an IDP certificate to be revoked (and all payments suspended) if the IDP has been outside GCA for more than 60 days. In practice, this means that elderly people living in the NGCA of Donetsk and Luhansk oblasts are forced to cross checkpoints at least once every other month to keep their pensions.

34. As a result of this state policy, pensioners make up approximately 70% of the people crossing the contact line every month²⁹. According to the SBGSU, 12.8 million people crossed the contact line over 11 months of 2019³⁰. At least 77 people (most of them elderly) died during the crossing in 2018-2019.

35. There are no procedures that would help low mobility persons living in the TOT to receive payments, pensions included. It's difficult to give an estimate on their exact number, but according to the PFU, 121.1 thousand pensioners registered in the NGCA of Donetsk and Luhansk oblasts never applied for their pensions since the conflict began³¹.

²⁹ based on the monitoring conducted by Right to Protection. Link: http://r2p.org.ua/wp-content/uploads/2019/12/EECP-Report-November_UKR.pdf

³⁰ <https://bit.ly/37bTZrl>

³¹ As of August 2014, there were only 1 million 278.2 thousand pensioners registered in the NGCA of Donetsk and Luhansk oblasts.

The right to psychological support and mental health

Regarding paragraph 27

36. As underlined by the report submitted by Ukraine (para 299), as of May 1, 2019, 22,846 children have obtained a status of a child affected by war and armed conflicts³². It should be noted that the definition embedded in the above-mentioned law³³ led to the establishment of dual statuses, e.g. for children of the deceased in the armed conflict. At the same time, some categories of children affected by the conflict were ignored, such as children who are members of families of veterans, members of families of active military personnel, or members of families of persons with disabilities acquired in the war, as well as children that live in the occupied Crimea and can also be considered victims of the conflict.

37. While the law declares that Ukraine undertakes an obligation to ensure conditions for medical and psychological rehabilitation and social reintegration of children affected by war and armed conflicts, as of January 2020, the policy framework and an action plan for its implementation have not been adopted. As a result, the status of a child affected by war and armed conflicts remains to be only declaratory: there are no specially targeted benefits or programmes provided at the national level.

38. In the absence of strategic documents - the state policy and an action plan - the response to the social needs and provision of psychological support (which is especially important be-

cause most of these children have experienced psychological abuse) to the conflict-affected children at the local level is also unsystematic and inconsistent.

39. There is a problem with data collection: for example, while most oblasts keep the records about internally displaced children, the information about children of veterans and/or current combatants is rarely collected³⁴. The absence of accurate statistics about different categories of conflict-affected children and standardised procedures for its collection does not allow to provide a needs-based response and comprehensive coverage of different categories of conflict-affected children.

40. The issue of psychological aid for persons that were unlawfully imprisoned in connection with the armed conflict has remained unresolved for a long time. At present, according to the Crimean Human Rights Group, at least 400 Ukrainian citizens were or still are unlawfully deprived of their liberty in the TOT and in Russia for political reasons. It was only in December 2019 that Ukraine finally adopted the Procedure on Measures of Post-Release Psychological Rehabilitation for Citizens of Ukraine that Were Taken hostage as a Result of the Armed Aggression against Ukraine, Deprived of Their Liberty for Political Reasons or Captured as Prisoners of War in Defence of Independence, Sovereignty and Territorial Integrity of Ukraine³⁵.

41. Under the Procedure, DLSP bodies take steps to ensure psychological rehabilitation of the released persons by referring them to providers of psychological rehabilitation services, with the state reimbursing associated costs. The list of entities providing such services that may be reimbursed for it is formed by the MV-

³² this status is provided for in Article 30 (1) of the Law of Ukraine "On the Protection of Childhood" no. 2402-III of 26 April 2001 and CMU Resolution 268 of 26 April 2001.

³³ The law provides that an individual can be entitled to this status, if he or she has not reached the age of 18 years for the moment of the conflict and who, as a result of military action and armed conflict, 1) suffered a concussion, injury or wound; 2) suffered physical and/or sexual abuse; 3) was captured or illegally taken outside Ukraine; 4) was involved in militarized activities; 5) was held illegally, including hostages in captivity; 6) suffered psychological abuse. The last ground (psychological abuse) does not need to be proven and may be a result of one's 1) accommodation/stay in military action, armed conflicts, or temporary occupation; 2) internal displacement; 3) death (disappearance), trapping, death as a result of injury, concussion or wound of parents, siblings, or extended family member

³⁴ In 2019, Stabilization Support Services prepared a report on Ukrainian children affected by the conflict: <https://radnyk.org/wp-content/uploads/2019/10/Doslidnyczkyj-zvit-Dity-yakyh-torknuvsya-zbrojnyj-konflikt-v-Ukrayini-.pdf>

³⁵ CMU Resolution 1112 of 11 December 2019 "Certain Issues Related to Social and Legal Protection of Persons Imprisoned as a Result of the Armed Aggression Against Ukraine after Their Release"



TOT based on the decision of a special commission, which has not yet begun work, meaning that the aforementioned category of citizens is receiving no state support with psychological rehabilitation. Some of these people are able to get support with the help of charitable organizations and donations.

42. Residents (especially children and the elderly) of cities located near the contact line are in poor moral and psychological state. The constant stress and post-traumatic symptoms negatively affect their health and the quality of life there. Many of them are in need of primary psychological care and systematic awareness-raising to help them understand psychological

hygiene and to tell them how to maintain one's mental health with professional help. At present, there are no state programmes for providing psychological assistance to residents of frontier areas. The only thing that comes close is the work of school psychologists, but they are unable to provide quality services to everyone who needs it. The role of psychologists often has to be performed by paramedics. Frontier areas also report a shortage of essential medical supplies, equipment and medicines as well as a shortage of medical personnel. Representatives of national and international NGOs provide primary medical care at the checkpoints and near the contact line.

The right to education

Regarding paragraph 28 (a)

43. Schools located near the contact line (5 km zone) lack properly equipped bomb shelters or even simple basements to hide in the event of shelling, and it's the same situation in other schools of Donetsk and Luhansk oblasts. In some schools, basements are only accessible from the outside, which puts the lives of children, teachers and administrators in danger. Furthermore, standard emergency plans focus on natural disasters such as earthquakes and fires and generally involve the evacuation of children from the building. This, of course, is not advisable when a city comes under artillery fire. This situation is observed inter alia in the schools of Chermalyk, Granitne, Maryinka and Krasnogorivka.

44. There are currently no state programmes on ensuring the safety of educational personnel near the contact line. However, the fact that the Government adopted safe schools declaration in November 2019 is a step forward.

45. The system for designating hub schools fails to take into account the specifics of frontier areas, such as the remoteness of small localities, bad roads due to the movements of heavy military vehicles and lack of maintenance, evening shelling (when it's dark), lack of street lighting in villages (for additional protection against shelling) located within a 5-kilometre zone from the contact line. Both oblasts have poorly accessible hub schools and lack of school buses, with the worst situation in Berdyansk, Sopine, Kalynivka, Novognativka and Staromaryivka.

46. The distance education system suggested by the Ministry of Education and Science has drawbacks that cause or stimulate bribery, human rights violations, etc.

Regarding paragraph 28 (b)

46. Most of the children living in the TOT are receiving secondary education in schools located there. Since the Government of Ukraine does not recognize documents issued in the TOT, secondary school diplomas do not allow these children to apply to HEIs within GCA. Furthermore, the policy of the de facto TOT authorities since 2014 has been aimed at reducing the number of Ukrainian-language classes, closing Ukrainian-language schools and removing certain school subjects (namely Ukrainian language, Ukrainian literature and Ukrainian history) from school curriculum. Thus, according to official statistics, in the 2018-2019 academic year, out of 200.7 thousand school students in Crimea, 194.4 thousand were taught in Russian and only 249 - in Ukrainian.

47. It is necessary to consider the peculiarities of education in the occupied Crimea here. The system of formal education in the occupied Crimea is part of Russia's deliberate policy aimed at the militarization of the local population and destruction of their Ukrainian identity. In practice, there are no more Ukrainian-language schools in Crimea already³⁶, and Crimean children are unable to choose citizenship and identity other than Russian. The children are exposed to constant propaganda promoting service in the Russian military, which violates IHL. In these circumstances, one of the only ways left for Crimean children to retain their Ukrainian identity and receive education that is in line with the values of a democratic state is by relocating to GCA and receiving secondary or higher education there.

48. Children from the TOT are facing numerous challenges when trying to obtain education in GCA. Thus, Ukraine-issued certificates on basic and complete secondary education are granted to children from the TOT who already hold these documents, but issued in the TOT, only if these children intend to apply to HEIs in GCA. If not, certificates issued in the TOT

³⁶ <https://crimeahrg.org/en/no-ukrainian-language-media-school-has-remained-in-crimea/>



are not recognized and no procedure exists for granting Ukraine-issued certificates on the basis of the TOT ones. Accordingly, this category of Ukrainian citizens is unable to find a job after graduating school, or to receive vocational education. Applying to Ukrainian HEIs involves crossing the administrative border with Crimea or the contact line within Donetsk and Luhansk oblasts several times. Moreover, the absence of public transportation between the TOT and GCA further complicates the process of entry into Ukrainian HEIs by TOT residents.

49. The State does provide a simplified procedure for entry into HEIs for TOT residents

- through the so-called education centres Crimea-Ukraine and Donbas-Ukraine. Unfortunately, these centres only allow entry into a limited list of HEIs in GCA. In addition, the entrants from the ARC and those from Donetsk and Luhansk oblasts are offered different lists of HEIs, based on their proximity to the respective occupied territory. This simplified procedure has already demonstrated its ineffectiveness: thus, in 2017, only 204 Crimean residents joined HEIs using this procedure, even though schools on the occupied peninsula have 10-12 thousand graduates every year.



THE COALITION ASKS THE COMMITTEE TO CONSIDER INCORPORATING THE FOLLOWING RECOMMENDATIONS INTO ITS FINAL OBSERVATIONS FOR THE STATE PARTY:

- the protection and observance of the rights of the conflict-affected population in Ukraine should be one of the priorities for the Government and should include a wide range of issues, namely Regarding the exercising of the right to social protection by IDPs and persons that remained in the temporarily occupied territories of Ukraine.

Regarding paragraph 1:

- reform the residence registration system in Ukraine to take into account the interests of mobile citizens within the country, including IDPs, and taking into account their right to maintain links with their old place of residence;
- ensure timely action to implement the provisions of the Electoral Code of Ukraine in order to ensure IDPs' right to vote in local elections;
- encourage local governments to develop and adopt local programmes for the adaptation and integration of IDPs into host communities.

Regarding paragraph 2:

- begin developing, with the help of NGOs, including those formed by IDPs, a new Strategy for the Integration of IDPs and Implementation of Long-Term Solutions for Internal Displacement for the 2021-2025 period, as well as an Action Plan for its implementation, arranging for sufficient funding for it.

Regarding paragraph 2 (a):

- reform the system of employment centres to implement more effective measures for improving the employment situation of the conflict-affected unemployed population as well as their relations with employers;
- implement effective means of informing IDPs about available employment measures aimed at improving their employment situation and the quality of services provided by employment centres.

Regarding paragraph 2 (b):

- eliminate the need to have an IDP certificate for receiving pensions and social benefits that are not related to internal displacement;
- repeal CMU Resolution 365, which imposes restrictions on IDPs' right to social protection;
- stop the practice of sending the personal information of IDP applicants from the occupied Crimea to Russia's pension authorities; provide pensions regardless of the availability of paper files on pensions.

Regarding paragraph 2 (c):

- develop a national policy on the observance of IDPs' housing rights as well as a plan for its implementation that will be part of the national integration policy concerning IDPs;
- increase funding for the programme of preferential long-term mortgage loans for ATO/JFO participants and IDPs on a permanent basis;
- develop and adopt a bill on providing compensation for damaged/destroyed homes and establish an appropriate budget programme.



Regarding paragraph 3 (a):

- introduce an effective and accessible administrative (out-of-court) procedure for establishing births that occurred in the TOT, which would take into account people's actual needs.

Regarding paragraph 3 (b):

- develop and implement a procedure for the payment of pension arrears to persons residing in the TOT as well as to those whose pensions were suspended on account of their IDP certificates having been revoked.

Regarding paragraph 4:

- introduce a mechanism for providing pensions to TOT residents, including to low mobility citizens.

Regarding paragraph 27:

- develop, in order to ensure full, equal and non-discriminatory access to medical care, psychological rehabilitation and social reintegration of conflict-affected children, a separate national policy and an action plan for its implementation;
- the national policy and action plan should determine specific statuses for different categories of children or make it possible for them to receive the general status of a child affected by war or armed conflict;

- arrange for systematic training of professionals specializing in providing psychological assistance to vulnerable groups of the population in frontier localities. Develop a system of incentives to encourage these professionals to work in frontier territories, as well as take steps to prevent emotional burnout among them.
- establish a targeted programme for providing the population living in the areas located near the contact line with psychological and medical assistance and social services, taking into account the effects of the ongoing armed conflict and the demographic, social, economic, infrastructural and administrative features of the region.

Regarding paragraph 28:

- develop the concept of education for TOT residents which would take into account the peculiarities of education in the TOT;
- improve the distance education system taking into account the feedback from the target audience;
- simplify the procedure for obtaining Ukraine-issued secondary education certificates by children from the TOT on the basis of appropriate documents issued to them in the TOT;
- develop the concept for improving the situation with obtaining secondary education in cities located in GCA close to the demarcation line.

Photos by Charitable fund Vostok SOS, ZMINA Human Rights Center, Civil holding GROUP OF INFLUENCE, Crimean Human Rights Group