

## In the shadow of war Ukraine's policy towards internally displaced persons

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The conflict in eastern Ukraine that has been going on for more than four years has resulted in one of country's worst social crises. More than 10 000 people have now been killed, and more than 25 000 injured in the conflict. The destruction caused by war, a weak economy, and the spread of criminal activity in areas controlled by pro-Russian separatists have forced more than 2 million people to leave their place of residence, according to official figures. Approximately 1.5 million of these have moved to other regions in the country. Although there is every indication that the true number is lower, the scale and consequences of the problem mean that Ukraine is facing the greatest humanitarian crisis in its history.

Although the authorities in Kyiv have expressed their resolve to solve the humanitarian issues and reintegrate the eastern regions into the rest of the country as soon as possible, the measures the state has taken have been inadequate and ineffective. The legal mechanisms devised to assist displaced persons are often discriminatory and sometimes unlawful. This failure to provide effective aid to displaced persons leaving the occupied areas has revealed not only that the administrative apparatus is ineffectual, but also that Ukrainian politicians are unwilling to take real measures to meet this challenge. In view of the ineffectiveness of state institutions, most of the support given to internally displaced persons is being provided by volunteers and by NGOs using international aid.

### Consequences of the conflict in the Donbas

Armed action by Russian saboteurs as well as local separatists supported by Russia's armed forces, leading to the creation of the "Donetsk People's Republic" and "Lugansk People's Republic" (DPR and LPR) in April 2014 led to a loss of almost 2.8% of territory of the Ukrainian state, a region inhabited by 3.8 million people before the conflict began<sup>1</sup>. An estimated 4.4 million people among the population have suffered indirectly in the conflict, of which 3.4 million are

in need of support and humanitarian aid due to limited water and food supplies and medical care<sup>2</sup>. More than 40 000 residential buildings have been destroyed in armed clashes.

As at 2 January 2019, the number of internally displaced persons (IDPs) registered by the Ministry of Social Policy of Ukraine was 1.512 million<sup>3</sup>. More than half of these persons (51%) are elderly persons registered as persons entitled to retirement benefits, 29% have capacity to work, 16% are minors, and 3% are disabled<sup>4</sup>. There is

<sup>1</sup> Чисельність наявного населення України на 1 січня 2018 року, Ukraine State Statistics Service, [http://database.ukrcensus.gov.ua/PXWEB2007/ukr/publ\\_new1/2018/zb\\_chnn2018.pdf](http://database.ukrcensus.gov.ua/PXWEB2007/ukr/publ_new1/2018/zb_chnn2018.pdf)

<sup>2</sup> *Ukraine 2018 Humanitarian Needs Overview*, UN OCHA, [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine\\_humanitarian\\_needs\\_overview\\_2018\\_en\\_1.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine_humanitarian_needs_overview_2018_en_1.pdf)

<sup>3</sup> Data for the Ukraine Ministry of Social Policy, <https://www.msp.gov.ua/news/16534.html>

<sup>4</sup> *Register of Internal Displacement*, UNHCR Ukraine, 6.12.2018, <https://goo.gl/Ugqggu>

every indication however that these are not the true IDP figures. As many as approximately 10% (just under 160 000) of the total number of people who left their place of residence due to the eastern Ukraine conflict decided not to register<sup>5</sup>.

**The social group that has suffered the most is pensioners, who represent more than half of the IDPs in Ukraine.**

On the other hand, the passing by the government in Kyiv in November 2014 of a law making payment of retirement benefits conditional on registration as IDPs for all residents of the occupied areas was a factor that increased the official number of IDPs. This resulted in all pensioners in the DPR and LPR being forced to register as IDPs despite the fact that a significant portion have not left their place of residence and remain in areas that are not under the control of the Ukrainian state<sup>6</sup>. In view of these factors, the Internal Displacement Monitoring Centre (IDMC)<sup>7</sup> and UNHCR<sup>8</sup> estimate the true number of IDPs to be approximately 800 000<sup>9</sup>.

<sup>5</sup> Among the reasons given for not applying for IDP status are (in order of importance) dislike of bureaucratic procedures, dealing with the problem of displacement by oneself and help from the state not being necessary, fear of disclosure of IDP status in the occupied territory and conscription into the Ukraine army. For *Оцінка зусиль щодо інтеграції внутрішньо переміщених осіб в Україні, July–August 2017*, material produced by Право на захист in cooperation with the Hebrew Immigrant Aid Society.

<sup>6</sup> Authentication conducted by the Ukraine Ministry of Social Policy at the beginning of 2016 led to retirement benefits being stopped for approximately 500 000 people who were found not to be eligible for registration as IDPs.

<sup>7</sup> IDMC, Ukraine, <http://www.internal-displacement.org/countries/ukraine>

<sup>8</sup> I. Volosevych, T. Kostiuhenko, *Desk Research of the Surveys of IDPs*, UNHCR, December 2017, [https://reliefweb.int/sites/reliefweb.int/files/resources/gfk\\_unhcr\\_desk\\_report\\_final.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/gfk_unhcr_desk_report_final.pdf)

<sup>9</sup> These estimates do not include migration of people to foreign destinations. For more details see D. Drbohlav, M. Jaroszewicz, *Ukrainian Migration in Times of Crisis: Forced and Labour Mobility*, Charles University, Praga 2016, [https://www.osw.waw.pl/sites/default/files/projekty/ukrainian\\_migration\\_in\\_time\\_of\\_crisis.pdf](https://www.osw.waw.pl/sites/default/files/projekty/ukrainian_migration_in_time_of_crisis.pdf)

## Reintegration on paper

In institutional and legal terms, the Ukrainian state had almost no procedures in place to deal with the problem of internally displaced persons. One of the first normative pieces of legislation intended to meet this challenge was the Act Securing the Rights and Freedoms of Internally Displaced Persons of 20 October 2014. When first drafted, this document only guaranteed displaced Ukrainian citizens the right to return to their place of residence once the causes due to which they left their place of residence ceased to exist. It was not until pressure was brought to bear by NGOs and international organisations that art. 2 of the act was amended on 12 December 2015 to include a declaration of “creation of conditions for voluntary return to the vacated place of residence or integration in the new location”<sup>10</sup>. At the same time, the regulations placed an obligation on local government authorities (art. 11) to assist IDPs in finding a place of residence, obtaining medical care, and continuing children’s education.

In July 2015, the Ukrainian government adopted a framework document entitled “Principal areas for solving problems of employment of internally displaced persons for 2015–2016”. This was a plan for measures to employ and provide professional education for IDPs, helping them to become more competitive on the job market and stimulating growth in regions using the available personnel among displaced persons. No funding was provided for the scheme, and for its duration (until 31 December 2016) it remained a scheme existing solely on paper.

At the end of 2015, the government also adopted the “Comprehensive State Scheme for Aid, Social Adaptation and Reintegration of Ukrainian Citizens moved from Temporarily Occupied Territory and Regions in which Anti-Terrorist Operations are being conducted to Other Regions of Ukraine in the period up until 2017”.

<sup>10</sup> *Про забезпечення прав і свобод внутрішньо переміщених осіб*, <http://zakon.rada.gov.ua/laws/show/1706-18>

Under the scheme, a wide range of support was to be provided by specific ministries and local authorities for IDPs. This would include measures for integration and social adaptation in a new community, creating suitable living conditions, and providing social, medical, psychological, and material aid<sup>11</sup>. This legislation met the same fate as its predecessor, as no funds were granted to implement it.

### The support given to IDPs is largely provided by NGOs and due to kindness on the part of local residents.

In April 2016, a Ministry for Temporarily Occupied Territory and Internally Displaced Persons was created. This ministry had the task of implementing state policy for “reintegrating territory and territory inhabitants into Ukraine”, but this new ministry is not involved in implementing any of the documents described above. Moreover, this ministry has been accused of not acting to provide support for IDPs, and this is demonstrated by the fact that no legislative initiative of any kind has been proposed in this regard<sup>12</sup>. Meanwhile, the ministry has spared no expense in fighting to preserve its good name, suing NGOs that are critical of its activities<sup>13</sup>.

In November 2018, the government approved the “Plan for Measures to implement the Internally Displaced Person Integration Strategy and Long-Term Measures concerning Internal Displacement in the period up until 2020”. This document is intended to help to create effective mechanisms for exercise of IDP rights, simplify property right protection procedures, and integrate IDPs into local communities. This strategy is not however a coherent and specific vision of support for IDPs. It is merely a set of recommendations and general suggestions for particular state institutions that deal with the problem of internal migration. Given the ineffectiveness with which state institutions operate, a major portion of the support for IDPs is provided due to the actions of NGOs using international aid<sup>14</sup>. The role of volunteers and activists proved to be of inestimable value, particularly at the beginning of the war. Notably, for the most part, local residents have been kind to displaced persons<sup>15</sup>, although there have been cases of hostility and prejudice<sup>16</sup>.

### Discrimination instead of aid

The measures taken by the state are provisional in nature, and this confirms that decision-makers do not have the will to truly solve IDPs’ problems. These measures are often discriminatory, making the state aid incompatible with UN Guiding Principles on Internal Displacement.

<sup>11</sup> Про затвердження Комплексної державної програми щодо підтримки, соціальної адаптації та реінтеграції громадян України, які переселилися з тимчасово окупованої території України та районів проведення антитерористичної операції в інші регіони України, на період до 2017 року, <http://zakon.rada.gov.ua/laws/show/1094-2015-%D0%BF#n10>

<sup>12</sup> МінТОТ не реалізував жодного міжнародного проекту за 2 роки існування, Цензор.НЕТ, 18.04.2018, [https://censor.net.ua/ua/photo\\_news/3061960/mintot\\_ne\\_realizuvav\\_jodnogo\\_mijnarodnogo\\_proektu\\_za\\_2\\_roky\\_ishnuvannya\\_organizatsiya\\_pereselentsiv\\_miyidimyua](https://censor.net.ua/ua/photo_news/3061960/mintot_ne_realizuvav_jodnogo_mijnarodnogo_proektu_za_2_roky_ishnuvannya_organizatsiya_pereselentsiv_miyidimyua)

<sup>13</sup> Ю. Шестакова, МінТОТ судиться з виданням «Главлком» та ГО, яка займається питаннями переселенців, 25.09.2018, <https://detector.media/infospace/article/141262/2018-09-25-mintot-suditsya-z-vidannyam-glavkom-ta-go-yaka-zaimaetsya-pitanyami-pereselentsiv-dopovnenno/>

<sup>14</sup> The total international humanitarian aid for Ukraine in 2018 came to more than USD 130 million. Among the largest donors were the US (USD 37.4 million), the EC (USD 24.8 million), Germany (USD 22.8 million), the UN (USD 5.9 million), Sweden (USD 5.1 million) and Poland (USD 4 million), Financial Tracking Flow, <https://fts.unocha.org/countries/234/summary/2018>

<sup>15</sup> Most displaced persons (62%) consider themselves to have entirely integrated with the community in the new place of residence. Г. Чабарай, ‘Переселенці й політика: повернути довіру’, *Тиждень*, 5.10.2018, <https://tyzhden.ua/Politics/220782>

<sup>16</sup> 14% of displaced persons encountered long-term or periodical signs of hostility. *Звіт за результатами всеукраїнського опитування внутрішньо переміщених осіб та мешканців приймаючих громад*, Київський міжнародний інститут соціології, Київ 2016, [http://www.kiis.com.ua/materials/pr/20160111\\_Shpiker-report/Rep-Internews.ukr.pdf](http://www.kiis.com.ua/materials/pr/20160111_Shpiker-report/Rep-Internews.ukr.pdf)

The first principle states that “internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country”. In addition, state policy with respect to IDPs should create conditions that help to integrate the incoming population into the local community or create the conditions for safe and voluntary return to the previous place of residence. At the same time, the policies on payment of retirement benefits to IDPs entitled to them are discriminatory. Pensioners in the areas not controlled by the Ukrainian state have to undergo periodical identification procedures in branches of Oszczadbank – the sole bank with the authorisation to pay social benefits to IDPs.

**The measures taken by the state are provisional, while the legal mechanisms introduced are sometimes discriminatory.**

Moreover, if absence is documented of a pensioner from the place in which they are registered in an area controlled by the authorities in Kyiv, payment of the benefit can be stopped indefinitely. This practice continues despite actions of this kind being found to be unlawful by the Ukrainian Supreme Court<sup>17</sup>. There is no subsequent compensation for stopped retirement benefits, even though they are often the sole means of upkeep<sup>18</sup>. All retirement benefits for IDPs have been adjusted to a unified rate of UAH 1000 (approximately USD 36) regardless of the previous rate and length of employment. This is also against Ukrainian law and devoid of legal grounds.

<sup>17</sup> Я. Смелянська, *Верховний суд вирішив, що переселенцям не можуть припинити виплату пенсій через відсутність за місцем реєстрації*, 19.02.2018, <http://khp.org/index.php?id=1519071548>

<sup>18</sup> For: *Постраждали від конфлікту. Як Україна забезпечує реалізацію їхніх прав*, [https://humanrights.org.ua/about/view/publication/postrazhdali\\_vid\\_konfliktu\\_jiak\\_ukrajina\\_zabezpechuje\\_realizaciju\\_jihnih\\_prav](https://humanrights.org.ua/about/view/publication/postrazhdali_vid_konfliktu_jiak_ukrajina_zabezpechuje_realizaciju_jihnih_prav)

As in the case of retirement benefits, social aid for people affected by the conflict is discriminatory<sup>19</sup>. It can only be paid by the state-owned Oszczadbank. The recipient has to undergo a physical authentication procedure at this bank, and is also required to notify the relevant authority of any change of place of residence. Ukrainian Security Service and Border Guard officers, and officials at the Ministry of Finance, have the power to conduct additional checks at the place of residence of IDPs. If the services are not notified of a change of residential address within the requisite time limit, or in cases of absence from the place of residence at the time a check is carried out, the benefit can be stopped until the matter is resolved. Both of these obligations and the consequences for not complying with them are a breach of Ukrainian law and Ukraine’s international obligations<sup>20</sup>. The authorities say, somewhat legitimately, that these restrictions are needed due to the danger of state funds being claimed fraudulently by criminal groups operating in the DPR and LPR<sup>21</sup>.

### Nowhere to live and unable to vote

The assistance provided by the Ukrainian state for IDPs to find a fixed place of residence is very little. To date, no scheme has been created helping them to find somewhere to live. According to International Organisation for Migration statistics, only 12% of internally displaced per-

<sup>19</sup> As aid intended for IDPs, the government approved financing for persons with capacity for work of UAH 442 (approximately USD 16) per month, and UAH 1000 (37 USD) for pensioners, students, and children. These amounts do not exceed the minimum subsistence level, which was UAH 1921 (69 USD) in December 2018.

<sup>20</sup> Under the Parliamentary Assembly of the Council of Europe resolution adopted in 2015 on the humanitarian situation of refugees and displaced persons in Ukraine, the authorities in Kyiv have to comply in full with the UN “Guiding Principles”. Resolution 2028 (2015) <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=21480&lang=en>

<sup>21</sup> When separatists took control of these areas, Kyiv was no longer able to monitor payment of social benefits and retirement benefits, and the true number of people eligible (for example due to not having access to the register of deaths).

sons live in their own homes. More than half (56%) are forced to rent a private dwelling or a room, while 13% make use of the hospitality of relatives and persons close to them<sup>22</sup>. The only means by which IDPs can obtain help in acquiring accommodation is the previously existing Available Housing scheme, in which internally displaced persons were included on special conditions. Under a government regulation of 20 September 2017, registered IDPs can apply for the state to subsidise half of the price of purchasing a dwelling. Due however to the high prices of properties and the low amount of funds allocated by the state for the scheme, to date only around 100 families have made use of it.

**Displaced persons are integrated with local communities despite the action taken by the state authorities rather than due to their efforts.**

Without a fixed place of residence, IDPs have difficulty registering with authorities in their new location. For this reason, a considerable number of internally displaced persons in Ukraine cannot vote in local elections or single-seat elections for the Supreme Council of Ukraine<sup>23</sup>. This openly discriminates against a large portion of Ukrainian society as it deprives them of a fundamental civil right and is a breach of art. 38 of the Ukraine Constitution and a range

<sup>22</sup> *National Monitoring System Report on the Situation of Internally Displaced Persons, March 2018*, International Organization of Migration, [http://www.iom.org.ua/sites/default/files/nms\\_round\\_9\\_eng\\_press.pdf](http://www.iom.org.ua/sites/default/files/nms_round_9_eng_press.pdf)

<sup>23</sup> In Ukraine there is a combined electoral system, which provides that half of the seats in parliament are taken by candidates on nationwide party lists, and half are taken by candidates from single-seat constituencies. The Electoral Code only allows people who have an "election address" according to the place in which they are registered to vote in local and general elections. See Г. Чабарай, 'Невидимий електорат. Як проголосувати переселенцям та іншим мобільним громадянам', *Тиждень*, 22.09.2018, <https://tyzhden.ua/Politics/219968>

of international laws (including for instance the Universal Declaration of Human Rights)<sup>24</sup>. The reason for the unwillingness on the part of the Ukrainian authorities to resolve this problem can be found in a fear that this would strengthen pro-Russian voters who traditionally live in the eastern parts of the Ukrainian state, which are the regions of origin of internally displaced persons<sup>25</sup>.

## Conclusions

The state's policy towards IDPs is provisional and ineffective. Insufficient support, and complicated procedures and requirements for obtaining it, mean that IDPs are left to fend for themselves and avoid state bureaucracy. This considerably undermines trust in the state, not only with regard to social welfare that Ukrainian citizens are guaranteed under the constitution. The perception of state institutions as ineffectual and unfriendly has turned society against the current authorities, but also against the state as an organisational structure. This creates conditions for further division of the country and erosion of the sense of identification with the state.

IDPs' voting rights have been taken away due to fear on the part of the political elite of inclusion of displaced persons in the election process and due to the lack of specific ideas as to how to solve the problem in the near future. As the Ukrainian public see the conflict in the east of the country as one of the main problems in Ukraine, which is mentioned more often than the problem of corruption or unemployment,

<sup>24</sup> *Internally Displaced Persons and Electoral Participation: A Brief Overview*, International Foundation for Electoral Systems, <https://www.ifes.org/sites/default/files/idps-electoral-participation-october-2016.pdf>

<sup>25</sup> According to polls, the party with the greatest support among inhabitants of parts of the Donetsk and Lugansk constituencies controlled by the government in Kyiv is the Opposition Bloc, with pro-Russian associations, and its leader, Yuri Boyko. See Rating Group Ukraine polls, *Портрети регіонів, 19.12.2018*, [http://ratinggroup.ua/research/regions/portrety\\_regionov\\_luganskaya\\_oblast.html](http://ratinggroup.ua/research/regions/portrety_regionov_luganskaya_oblast.html)

the authorities are inclined to take superficial measures to deal with the problem and conceal the failure of the reintegration policy to produce results.

Despite the support provided by the state being ineffective, most of the displaced population have managed to adapt to the new conditions and integrate with the inhabitants of the new locations without great difficulty. Over the period of four years since the conflict in the

east of the country began, there have not been any serious problems in Ukraine relating to an increase in social conflict or IDP communities turning to crime. However, this is due to the capability of those persons to cope and kindness on the part of local inhabitants, who are sympathetic to the situation of people forced to leave their place of residence. Successful integration will take place despite the actions of state authorities rather than due to their efforts.

## MAP

### Manner in which IDPs are dispersed in Ukraine



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