



Women and Displacement in Ukraine

Analytical report



ГРОМАДСЬКА
АЛЬТЕРНАТИВА





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Cover photo: dwelling house, damaged by shelling, so-called “raskraska” (“colouring”) by the portrait of the local teacher on it’s wall in Avdiivka.¹

This material is an analytical report on the results of desk and field researches on the observance of the women’s rights among IDP’s in Ukraine with the overall assessment of the challenges these women face. This analytical report contains monitoring of court decisions, related to IDP’s issues, taking into account the gender aspect; analysis of state and local programmes on the specific steps to support of internally displaced women and their needs; review of research of international and local organisations in the identified field; results of research, based on the interview with female IDPs and representatives of support organisations from Donetsk and Luhansk regions.

Research was completed with cooperation of the NGO “DRA” in the framework of “Working Group on Women and Gender Realities in the OSCE Region” of the “Civic Solidarity Platform”, namely the project “Strengthening Civil Society Cooperation in the OSCE Region in Regards to Security, Human Rights, Conflict Resolution and Gender Equality”, with the financial support of the Ministry of Foreign Affairs of the Federal Republic of Germany.

Opinions expressed in this report may not reflect the official position of the Ministry of Foreign Affairs of the Federal Republic of Germany.

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¹ https://24tv.ua/ru/simvoly_vojny_opublikovali_svezhie_foto_pechalno_izvestnyh_9_jetazhek_v_avdeevke_n897886

Introduction

The following material contains the results of desk and field researches on the observance of the women's rights among IDP's in Ukraine and the overall assessment of the challenges these women face. The research was accomplished by the experts and the volunteers of Kharkiv Regional Foundation "Public Alternative" and it concerns issues of displacement both within one settlement and migration from uncontrolled territory.

This report is just an illustrative brief overview of forced migration challenges that women are facing because of the armed conflict in the East of Ukraine. This report does not pretend for complete and comprehensive reflection of the situation. However, it identifies key issues and trends that require the immediate intervention from the state authorities and civil activists.

This analytical report contains monitoring of court decisions, related to IDP's issues, taking into account the gender aspect; analysis of state and local programmes on specific steps to support of internally displaced women and their needs; review of research of international and local organisations in the identified field; results of research, based on the interviews with female IDPs and representatives of the support organisations from Donetsk and Luhansk regions as well from the regions of mass displacement (Kharkiv region).

On the base of the collected and analysed materials authors have developed the list of recommendations to the state authorities, local self-government and civil society in Ukraine and to the international institutions. Proposed actions take into account the results of expert discussions on common challenges for women's rights caused by migration provided within the "Working Group on Women and Gender Realities in the OSCE Region".

The research was initiated by the Working Group within the framework of the joint project of the Civic Solidarity Platform and NGO "DRA" (Berlin, FRG) to strengthening civil society cooperation in the OSCE region with regards to security, human rights, conflict resolution, and gender equality with the financial support of the Ministry of Foreign Affairs of the Federal Republic of Germany.

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Partners organisations

Kharkiv Regional Foundation “Public Alternative” is Ukrainian NGO, founded in 2005. The Foundation promotes values of inclusive democratic society, its priority activities in Ukraine and in the OSCE region are human rights education and rights of the child education, monitoring of human rights, combating discrimination, implementation of European human rights standards to the Ukrainian judicature.

DRA is a non-profit non-governmental organisation based in Berlin. Since 1992 promotes democratic values in Russia and other Eastern European countries, in cooperation with Russian, Belarus, Ukrainian and other European NGOs as well as independent media. DRA offers youth and other exchange programs in the sphere of political education, democracy and active citizenship. It also works on establishing connections within Western partnerships. Besides, DRA acts as an agent of the European volunteer service for volunteers from Eastern and Western Europe.

Working Group on Women and Gender Realities in the OSCE Region was founded in Hamburg in 2016 as a reaction to the shrinking space for civil society and the fact this process is not gender neutral. Members of the group, highly experienced peace and human rights activists from Germany, Italy, Sweden, Austria, Ukraine, Russia, Georgia, Armenia, and Kyrgyzstan, see an essential role of women participation in dialogue formats, peace processes, negotiations, diplomatic and conflict-related analysis and debates. Admitting that women are the most vulnerable and multi-vulnerable in the context of space for Civil Society, the Working Group sees its mission in promoting women as agents of change. Among the activities of the working group, there are monitoring missions in the conflict-affected areas such as Ukraine and Georgia, activities in Kyrgyzstan and Armenia, as well as advocacy work and public debates and workshops both for experts and general audience across the OSCE region.

The Civic Solidarity Platform (CSP) is an association of civil organisations and groups from the OSCE region countries as well as international NGOs interested in joint activities on promotion and protection of human rights in the OSCE region, ready to coordinate their efforts in this direction, promote common positions and provide mutual support and assistance to each other.

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Methodology

The desk research includes the analysis of the existing legislation framework for IDPs on the reflection of strategies, norms and standards for ensuring women's rights and emphasise on women as on potential victims of multiple discrimination as a result of their displacement. In the whole twelve laws and regulations, ten state programs and strategies, both, gender-neutral but related to the conflict and displacement issues and gender-oriented were analysed on paying the attention to the protection of women in situations of conflict and displacement. The analysis covers documents of national and local level, collected by sending formal requests to the regional administrations and councils and to the city councils in regional centres, including Kyiv. Total number of processed responses is 55.

The materials of the report include results of studies of various international and Ukrainian organisations that more or less have considered the problem of women's rights in the context of displacement. Thus, the reports of Office of the United Nations High Commissioner for Refugees, International Organization for Migration, UN Office for the Coordination of Humanitarian Situations and Ukrainian public organizations Crimean SOS and Women's Perspectives were studied.

The third part of the desk research is the analysis of court decisions, submitted to the Unified State Register of Court Decisions.² The search was made by the key words of this research. The selected cases were processed by the context analysis. In total, about 9000 cases became the subject of the initial analysis. Further, the relevant cases that clearly illustrate problems of the observance of the rights of women for the report were selected. It should be mentioned, that the biggest part of the court decisions are categories of cases of social protection, including the right to social payments and pensions. During the research the experts worked with all data massive without any geographical exclusion for the courts location. The period for the court decisions was framed from 2014 to 2018. The examples of the court decisions in this report are systematised by the main existing problems, defined during other reserch stages.

The field research was provided on the Ukrainian Government controlled territories of Donetsk and Luhansk regions, in the liberated cities and along the contact line. It covers forced migration within the same settlement as well as displacement from the uncontrolled territories. The research group made two field missions in November and December 2018 and visited Avdiivka, Mariinka, Toretsk, Zolote, Schastyia, summerhouse zone "Olkhivski Dachii" (Stanytsa Luhanska), Severodonetsk, Kostyantynivka, Kramatorsk. The researchers collected in-depth interviews with representatives of IDPs' support organisations and women, who were displaced during 2014-2018 because of the conflict, on the condition of maintaining the interviewee personal anonymity.

² <http://www.reyestr.court.gov.ua>

The other sources of information for this research were also official documents and publications of authorities, reports of international missions and organisations.

For the reasons of expediency and safety it was decided to put some **restrictions** before the sampling. Firstly, the research was conducted among the persons, who are living on the government controlled territory where during 2014-2018 have been or still are going on military actions. Secondly, only women who were forced to move due to the military actions in 2018-2014 were invited for participation in interviews. The representatives of the support organisations were interviewed on their locations regardless their gender.

As a **sampling technology** for the research the snowball method was chosen. Respondents shared the contact details or information about other persons, who could potentially take part in the research. The settlements were selected to include all varieties: regional centres, towns and villages. The total number of meetings was 20 and 15 interviews were collected.

The interviews were provided in the framework of field research missions on the base of the semi-structured questionnaire, developed by experts of KRF “Public Alternative”. Every meeting was pre-agreed by telephone, the respondents chose places for meetings. The meetings mostly took place in respondents’ homes and workplaces, three interviews were provided in the researches’ car.

To prepare the questionnaire, the reports of international organisations and monitoring missions, Ukrainian human rights and humanitarian organizations and official statistic data were taking into account.

The questionnaire covers the following thematic blocks:

- Socio-demographic characteristics: age, occupation, family status;
- Circumstances and reasons for displacing;
- Housing, environment, infrastructure;
- Liaison with family;
- Financial independence and labour rights;
- Security;
- Access to educational services;
- Access to healthcare services;
- Access to administrative services;
- Access to justice;
- Institutions and structures, which provide support and assistance;
- Main sources and channels of information.

Respondents are females IDPs aged from 17 to 83 years old, who provided an informed consent to an audio recording of conversation under conditions of anonymity and confidentiality. The shortest interview lasts 30 minutes, the longest lasts 2,5 hours. During the meeting interviewers provided respondents with the purpose for the collection of this information, terms of its preservation and using.

Chronology of Conflict

It's necessary to admit, that forced displacement directly related to intensification of hostilities. The key events of the conflict in the eastern Ukraine are listed below.

Winter and spring of 2014. After the mass protests that took place on the Maidan in Kyiv series of mass counter-protests began in the largest cities of the south-eastern part of Ukraine. At the same time, the troops without distinctive insignias occupied the Crimean peninsula.

March 16, 2014 on the territory of the Crimea and the city of Sevastopol a pseudo-referendum on the status of the peninsula was held. Following its "results" Russia have proclaimed Autonomous Republic of Crimea as a part of the Russian Federation. Simultaneously with the annexation of Crimea the administrative buildings in Donetsk, Luhansk, Mariupol, Lisichansk, Kramatorsk, Slavyansk, Makiivka and other cities of Donetsk and Luhansk oblasts were seized. On **April 14, 2014** Ukrainian authorities announced the start of the Anti-Terrorist Operation (ATO).

In **April 2014** illegal armed formations in Donbas s region announced the creation of the so-called "Donetsk People's Republic" and "Luhansk People's Republic". In **May 11, 2014**, the so-called referendum on the independence of "DPR" and "LPR" was organised. At the same time the pro-Ukrainian activists were forced to leave the region because of persecutions and physical attacks.

The military actions, which previously were only point clashes, explode with renewed vigour. The locals, who didn't take part in the armed conflict, began departing massively from the combat zone in all available directions.

In **July 2014** the Ukrainian forces began the offensive and strategically important cities such as Slavyansk, Kramatorsk, Konstantinovka, Bakhmut (Artemivsk), Lisichansk, Severodonetsk, Mariupol were released from the separatists. IDPs began to return to the liberated cities, instead, people started to leave municipalities on the frontline or the areas where the battles for the control over the borders with the Russian Federation took place.

In **August 2014** after the direct military intervention by the armed forces of the Russian Federation, battle near Ilovajsk became one of the turning points of the war in the Eastern Ukraine. Ukraine's Armed Forces switched from the attack to the defence, some settlements were again passed under the control of the separatists and the Russian militaries.

On **September 5, 2014** representatives of Ukraine, Russia, OSCE and so-called "DPR" and "LPR" signed the Minsk Protocol on the introduction of a ceasefire regime. On **September 19**, the second round of negotiations took place; the parties signed a memorandum that regulated this regime. Under the Protocol, the parties to the conflict were obliged to adhere to the truce, to stay at the current positions, to withdraw weapons with a calibre more than 100 mm

from the 15 kilometres zone along the contact line and make exchange of captives.³

Despite it, shelling and military actions in Donbas continued, in particular, the battle for the Donetsk airport, although in general the intensity was somewhat reduced.

On **January 30, 2015** the armed formations of the so-called “DPR” captured the city of Vug-legirsk, and gradually began to surround Debaltsevo in following weeks.

On **February 11-12** at the Minsk summit with the participation of Ukraine, Russia, Germany and France the plan for the implementation of the Minsk Agreements was agreed and as well as a truce and a cease-fire coming into force from **February 15, 2015**. From the end of **February 2015** the withdrawal of heavy military machinery from the contact line agreed at Minsk have started. However, until present, the contact line agreed upon Protocols does not coincide with the real arrangement of forces.

On **April 30, 2018** The Anti-Terrorist Operation (ATO) was reformatted into Joint Forces Operation with the transfer of formal management from SBU to the Joint Operational Headquarters of the Ukrainian Armed Forces.

The majority of persons, who displaced from the ATO zone because of the armed conflict, had left the area before the beginning of the implementation of Minsk Agreements. From **February 2015** the repeated ceasefire violations provoke forced displacement from the certain settlements.

For example, on **May 17, 2018** it was officially announced that units of the Armed Forces of Ukraine are taking the control over the settlement Chigari, a part of the town Pivdenne (Toretsk, Donetsk region), that was considered being a “grey zone”. After that the battle for the settlement has started. At present, the civilian population left the village and access to the settlement is closed.

Since **September 2018**, there is an escalation near the municipalities Katerinivka and Zolote-4 (farm Vilnyi), after their status was changed from the “grey zone” to the government-controlled (Luhansk region).

According to data provided by UN OCHA, from **April 2014 to December 2018**, more than 3,000 civilians were killed and about 9,000 were wounded.⁴

³ Protocol on the results of consultations of the trilateral contact group. Access mode: <https://www.osce.org/ru/home/123258?download=true>

⁴ OCHA Ukraine, Situation reports. Last Updated: December, 31, 2018. Access mode: https://reliefweb.int/sites/reliefweb.int/files/resources/Situation%20Report%20-%20Ukraine%20-%2031%20Dec%202018_0.pdf

Information on IDP's in Ukraine: Quantitative and Gender Indicators

According to official data of the Ministry of Social Policy of Ukraine, as of November 26, 2018, 1 519 654 internally displaced persons are registered in Ukraine. This is the total number of persons displaced from the temporarily occupied territories of Donetsk and Luhansk regions and the temporarily annexed territory of the Autonomous Republic of Crimea.⁵

Ukraine is among the top ten countries with the highest number of IDPs that received their status due to the armed conflict and violence. Ukraine is standing down only by the Middle East countries – Syria (6.6 million of IDP), Iraq (3.3 million), Yemen (2.5 million) and African countries – Sudan (3.2 million), Nigeria (2.1 million), Southern Sudan (1.7 million). Ukraine is ahead of Pakistan (1.5 million) and Afghanistan (1.2 million). Among the European countries, Ukraine is the leader state. Ukraine is ahead of Turkey (about 1 million), Azerbaijan (564 thousand people), Cyprus (272 thousand), Georgia (239 thousand), and so on.⁶

According to “UN Women”, about 65% of IDPs are women and children (UN highlights gender and humanitarian issues related to the conflict in eastern Ukraine).

The largest number of IDP was registered in Donetsk, Luhansk, Kharkiv, Zaporizhzhya, Dnipropetrovsk (Dnipro) and Kyiv oblasts.

In May 2018, the Representative of the Human Rights Ombudsperson, Aksana Filippyshina, stated: “Unfortunately, the situation with the observance of the rights of female IDPs in Ukraine is not radically improving. First of all, this concerns the unsatisfactory process of integrating migrant women into local communities. And this, in turn, causes violation of their rights to work, housing, provision of social and medical services, education, etc. If we compare the level of women’s rights implementation, it is about 10-12% of the implementation of the rights of IDP men, which is a vivid evidence of gender imbalance.”

5 <https://www.msp.gov.ua/news/16324.html>

6 <http://www.niss.gov.ua/articles/2375/>

Region	Amount of people	Amount of IDP	Percentage to the total number of IDP	Number of IDP on 10 thousand of population
Vinnitsya Oblast	1 590 357	12 614	0,8	81
Volyn Oblast	1 040 954	4 165	0,42	42
Dnipropetrovsk (Dnipro) Oblast	3 230 411	67 551	2,13	213
Donetsk Oblast	4 244 057	561 076	13,44	134
Zhytomyr Oblast	1 240 482	10 651	0,85	85
Zakarpattia Oblast	1 258 777	3 147	0,25	25
Zaporizhzhya Oblast	1 739 488	97 016	5,57	557
Ivano-Frankivsk Oblast	1 379 015	4 080	0,3	29
Kyiv Oblast	1 734 471	49 306	3,2	282
Kirovograd (Kropyvnytsky) Oblast	965 756	13 087	0,9	134
Luhansk Oblast	2 195 290	261 819	17,0	118
Lviv Oblast	2 534 027	10 742	0,7	42
Mykolaiv Oblast	1 150 126	7 452	0,5	65
Odesa Oblast	2 386 516	36 415	2,4	110
Poltava Oblast	1 426 828	26 427	1,7	182
Rivno Oblast	1 162 763	2 808	0,2	24
Sumy Oblast	1 104 529	13 397	0,9	121
Ternopil Oblast	1 059 192	2 228	0,1	28
Kharkiv Oblast	2 701 188	172 989	11,3	617
Kherson Oblast	1 055 649	14 552	0,9	145
Khmelnitsk Oblast	1 285 267	6 115	0,4	47
Cherkasy Oblast	1 231 207	12 813	0,8	104
Chernivtsy Oblast	908 120	3 015	0,2	33
Chernigiv Oblast	1 033 412	8 554	0,6	82
Kyiv, the city	2 925 760	135 548	8,7	451
Ukraine	42 584 542	1 492 100	100	353

Legislation, State and Local Programmes Aimed at Supporting and Protecting the IDPs' Rights

There is currently a large number of special laws and other normative acts related to IDPs in Ukraine. Changes are often made to this regulatory framework.

1. Law of Ukraine "On Ensuring Rights and Freedoms of Internally Displaced Persons".
2. Law of Ukraine "On Securing the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine".
3. Procedure for Registration and Issuance of a Certificate on the Registration of an Internally Displaced Person, Approved by the Resolution of the Cabinet of Ministers of Ukraine dated 10/01/2014 No. 509.
4. Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for the Issuance of Documents Affirming the Citizenship of Ukraine, Certifying a person or His/Her Special Status, Citizens Residing in the Temporarily Occupied Territory of Ukraine" dated June 4, 2014, No. 289.
5. Temporary Control of the Movement of Persons, Vehicles and Shipments (Goods) through the Contact Line within the Donetsk and Luhansk oblasts, approved by the order of the first deputy head of the Antiterrorist Centre under the Security Service of Ukraine dated 12/06/2015 No. 415-oct (with amendments).
6. Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Entry to and Exit from the Temporary Occupied Territory of Ukraine" No. 367 dated 04/06/2015.
7. Resolution of the CMU dated June 14, 2014, No. 558 "Issues of Social Security of Ukrainian Citizens Moving from Temporarily Occupied Territory and Areas of Anti-Terrorist Operation".
8. Resolution of the Cabinet of Ministers of Ukraine "On the Provision of Monthly Targeted Assistance to Internally Displaced Persons to Cover the Cost of Living, Including for Payment of Housing and Communal Services" dated October 1, 2014, No. 505.
9. Resolution of the Cabinet of Ministers of Ukraine "On Some Issues in the Implementation of Social Payments for Internally Displaced Persons" dated June 8, 2016 No. 365.
10. Resolution of the Cabinet of Ministers of Ukraine dated June 8, 2015, No. 505 "On Approval of the Main Directions for the Resolution of the Problems of the Employment of Internally Displaced Persons for 2015-2016".

11. Resolution No. 696 of 8 September 2015 “On Approval of the Procedure for the Implementation of Measures to Promote Employment, Refunds for the Funding of Such Measures in the Case of Breaking the Guarantees of Employment for Internally Displaced Persons”.
12. Resolution of the Cabinet of Ministers of Ukraine #646 dated September 22, “On Approval of the Procedure for Creation, Management and Access to the Information of the Uniform Information Database on Internally Displaced Persons”.

An analysis of state programmes and strategies regarding the availability of provisions on the protection of women’s rights during the conflict and post-conflict period is provided in the Annexes.

Regional programmes do not take into consideration gender component. Among the responses to information requests to all oblast and city councils of oblast centres, as well as oblast state administrations of all regions of Ukraine, programs of employment and social protection of the population, providing services for IDP were named. However, unlike families with children, people with disabilities, they do not distinguish women as a separate category, and, consequently, their particular problems and needs are not taken into account. Most of responses explicitly indicated that the work with the female IDP was not accounted separately.

Only one city, Kropivnitsky, keeps gender statistics of assistance provided to IDP. Another exception is the Sumy City Council, which includes in the priorities of their work with the employment of the population the recommendation that the collective labour contracts should include provisions on ensuring gender equality in employment; and among the events they state a round table on the issues of ensuring equal rights and opportunities for women and men to exercise their right to work. The better situation is in those areas where the active civil society organisations working on support of gender equality are present. In such cases, in Lviv, Ternopil etc, local authorities and local self-government bodies include to their reports the activities of civil society organisations. Actions that have a gender component could include aid and rehabilitation for children that exists in all regions.

It is worth noting that six regions have a local “Plan to Provide Recommendations for Making Collective Labour Agreements” to include to them provisions for ensuring gender equality and employment time; a round table on ensuring equal rights and opportunities for women and men to exercise their right to work. Most of them have “Programmes for the Equal Rights and Opportunities for Women and Men” or “Human Trafficking Prevention Programme”. These programs have women as the main target group, however they do not take into account the displacement component.

Main Challenges and Violation of IDPs' Rights Taking into Account Gender Aspect

The areas where the risk of violating IDP rights is the highest:

- registration;
- renewal and registration of identity documents;
- rights related to freedom of movement;
- the right to housing;
- the right to health care;
- the right to social protection;
- the right to a pension;
- the right to work;
- the right to education;
- election rights;
- the right to peaceful assembly;
- the right to access to court;
- the right to state registration of acts of civil status;
- access to information on the implementation of IDPs' rights;
- the right to property;
- protection of personal data.

In situations of extreme poverty and inequality, women may not be left out with any other way than providing sexual services for money or food or other goods in such conditions that make them particularly vulnerable to exploitation, violence and the risk of transmission of HIV/AIDS or sexually transmitted infections.

This is affirmed by the following data collected from local and international organisations.

The Office of the United Nations High Commissioner for Refugees conducted a study "Preliminary analysis and assessment of the needs of internally displaced persons", which analysed the dynamics of internal movements in the regions of Ukraine, the activities of state authorities in ensuring rights and needs of internally displaced persons.⁷

In 2015, Ukrainian NGO "Crimea SOS" conducted a survey "On Attitudes towards Migrants", whose task was to investigate the relationship between local communities and migrants in

⁷ http://www.un.org.ua/images/documents/4509/wcms_464289.pdf

the largest cities of Ukraine.⁸ In the course of the survey, a sociological survey of target groups and a content analysis of regional mass media were conducted. The monitoring showed that the perception of IDPs by the local communities varied according to the phases of the intensification of the conflict. Thus, immediately after the annexation of Crimea and the beginning of the armed conflict in the East, the migrants were perceived positively almost throughout Ukraine. But in July-August 2014, most of IDPs faced discrimination in many areas: searching for job, housing etc.

In 2016, the International Organization for Migration (IOM) published the results of the study “Migration in Ukraine: Facts and Figures”, which also studied the problems of IDPs. This analysis was based on the statistical data and showed the general tendency of internal displacement in Ukraine.⁹

In addition, IOM and the Council of Europe conducted a survey on the “National Monitoring System for Displaced Persons Situation”, which was carried out in the form of a survey and aimed at studying the socio-economic status of IDPs, their mobility and integration into the communities of their displacements.¹⁰

On a permanent basis, the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) and the Global Protection Cluster are publishing newsletters on IDPs in Ukraine. The newsletters contain statistical information, review of problems and analysis of the Ukrainian legal framework, as well as violations of IDPs’ rights.

In 2018 the Ukrainian NGO “Women’s Perspectives” prepared a report on gender analysis of the results of the All-Ukrainian polling on the observance of the IDPs’ rights, which revealed main problems encountered by female IDPs during the exercise of their rights:

When applying to the social protection bodies, women more often complain about requirements to provide additional documents, certificates, copies (15.4% vs. 13.1%), inaccessibility of information on the procedures, explanations on the most frequently encountered issues (10.1% vs. 6.6%), lack of clarification when applying to employees / insufficient explanation (12.2% vs. 8.7%), violation of terms of service (6.2% vs. 3.9%), bad arrangement of the premises (absence of seats / chairs for waiting, bathrooms, heating, lighting) (6.7% vs. 4.3%), their unfair treatment as IDPs by employees (6.5% vs. 4.9%).

In the areas which women indicate problems / complications / violations in relation to their status of IDPs, the question “Do you or your family members apply to local social welfare authorities for receiving social assistance (with the exception of a pension)?” women are replying more consistent than men: 72.3% of women have applied vs 59.7% of men. Women complain more about the late payments (19.8% vs. 16.3%), the impolite

8 <http://krymsos.com/settlers/news/55ba327458175>

9 http://iom.org.ua/sites/default/files/ff_ukr_21_10_press.pdf

10 <http://reliefweb.int/sites/reliefweb.int/files/resources/NMS%20Round%202%20%5BEN%5D.pdf>

attitude of employees towards them as persons with an IDP status (4.1% vs. 1.7%), and inaccessibility of information on procedures, clarifications of the most frequent issues (8.0% vs. 6.0%).

The specificity also applies to the way of crossing the border: women cross the border more often on foot (8.3% vs. 6.4%), or by bus / minibus that travels directly through the contact line (buses that go only to checkpoints - 52.8% of women vs 39.2% - men, busses that circulate in the grey zone - 33.9% women vs 25.6% - men, after the contact line (government-controlled territory) 53.9% women vs 43.6% men). As for men, they use their own cars more often (18.0% vs. 10.4%), or they join as passengers in a strangers' car (27.3% vs. 23.0%). This can be an evidence of greater comfort enjoyed by men on such trips and probably a greater danger for women when crossing the ORDLO borders.¹¹

This is not a complete list of studies conducted in Ukraine on the situation with IDPs and the problems they encounter in their everyday lives. However, all the listed above is an appropriate illustration of amount of attention that is being paid to the specific needs of women during the conflict, the special barriers faced by women in connection with the conflict and the necessity of their forced displacement. Particular difficulty is the issue of ensuring the rights and needs of women suffering from multiple discrimination (female IDPs with HIV/AIDS, female IDPs with children with disabilities, female IDPs from ethnic minorities, the Roma minority, in particular etc.).

¹¹ <http://www.ombudsman.gov.ua/images/2018/05/03052018/Zvit.pdf>

Monitoring of Court Decisions on IDPs' Rights and Interests

1. Contradictory jurisprudence has developed in cases when **a person asks for recognition of his/her IDP status in connection with forced change of permanent place of residence, although the plaintiff's place of registration is not on the "List of Municipalities Situated either on the Territory where the State Authorities Do Not Temporarily Exercise or Do Not Fully Exercise Their Powers and the List of Municipalities Located on the Contact Line"**. The Department of Social Protection of the Population in such cases refuses to register individuals as internally displaced persons.

In one of the cases, the plaintiff indicated that active military operations were carried out on the territory where she was registered, and she provided evidence from the official reports of the Organization for Security and Cooperation in Europe. In addition, the plaintiff referred to the fact that the settlement of her residence in accordance with the order of the Cabinet of Ministers of Ukraine dated 12.05.2015 No. 1275-p refers to the locality where the anti-terrorist operation was carried out. Accordingly, she was forced to leave her place of permanent registration in order to avoid the negative consequences of the armed conflict. The Court drew attention to the fact that the Law of Ukraine "On Ensuring Rights and Freedoms of Internally Displaced Persons" does not contain any references to the use of the "List of Municipalities Situated either on the Territory where the State Authorities Do Not Temporarily Exercise or Do Not Fully Exercise Their Powers and the List of Municipalities Located on the Contact Line", approved by the Order of the Cabinet of Ministers of Ukraine of November 7, 2014, No. 1085. Therefore, the lack of a municipality in the mentioned above lists cannot be the reason for a refusal to issue a certificate and cannot testify about absence of circumstances that caused the internal displacement, specified in Art. 1 of the Law of Ukraine "On Ensuring Rights and Freedoms of Internally Displaced Persons". In addition, the court also referred to the ruling of the European Court of Human Rights dated October 14, 2010 on the case of "Shchokin v. Ukraine", which stated that the quality of the law implies the requirement of accessibility for the persons concerned, clarity and predictability in its application; the lack of necessary clarity and precision in the national legislation violates the requirement of "the quality of the law". Whenever the national legislation leads to ambiguous or multiple interpretations of rights and obligations of individuals, the national authorities are obliged to apply the most favourable approach for individuals. Hence, the collisions are always interpreted in favour of an individual. As a result, the court upheld the claim, acknowledging that the refusal to issue

the certificate of an IDP was illegal and obliged the management of social protection to re-examine the petitioner's application.¹²

2. It is also problematic **to provide an IDP status to those who left the Autonomous Republic of Crimea before the Law of Ukraine “On Securing the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine” came into force.**

Thus, in one of the cases of the management of social protection of the population, Court substantiated its refusal by the fact that at the moment of displacement of the plaintiff (March 25, 2015) the Autonomous Republic of Crimea was not legally defined as a temporarily occupied territory. The court disagreed with this position. The court ruled that according to the well-known information, the Verkhovna Rada of the Autonomous Republic of Crimea and the Sevastopol City Council adopted the “Declaration on the Independence of the Autonomous Republic of Crimea and Sevastopol” on 11.03.2014. March 16, 2014 an illegal referendum on Crimean status was held in the Autonomous Republic of Crimea. March 17, 2014, on the basis of the results of the aforementioned referendum and the “Declaration on the Independence of the Autonomous Republic of Crimea and Sevastopol”, the so-called “Republic of Crimea” was proclaimed. March 18, 2014, an agreement was signed between the Russian Federation and the so-called “Republic of Crimea” on the adoption of the latter in the membership of the Russian Federation. These circumstances are widely covered in the media, including during these events, and are generally known. The court does not accept the representative's reference to the defendant that the grounds for the recognition of the plaintiff by an internally displaced person from the temporarily occupied territory arose only after the adoption of the Law of Ukraine “On ensuring the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine.” This Law only regulated the status of the Crimea as a temporarily occupied territory, but the circumstances that led to the adoption of such a law arose earlier. Analysing the foregoing, the court concluded that since March 18, 2014, the plaintiff had substantiated the grounds to consider the territory of the Autonomous Republic of Crimea as occupied and anticipate the occurrence of negative consequences of occupation, since then the territory of the Autonomous Republic of Crimea had not been controlled by the state bodies of Ukraine. Taking all these into account, the court ruled that the plaintiff is the subject to the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Persons”, since the plaintiff is an internally displaced person in the sense of Article 1, Clause 1 of the Law of Ukraine “ On Ensuring Rights and Freedoms of Internally Displaced Persons”.

¹² See Resolution of Selidovo City Court of Donetsk region dated 07/21/2017 in case number 242/1641/17 // <http://www.reyestr.court.gov.ua/Review/67881367>.

3. Another collision is **the gaining an IDP status for a persons who, in accordance with Part 1, Art. 6 of the Law of Ukraine “On Freedom of Movement and Free Choice of Place of Residence in Ukraine” after leaving the Autonomous Republic of Crimea have changed one’s registration in a new place of residence.** De jure it is an obstacle for gaining the IDP status in accordance with the requirements of the Law of Ukraine “On ensuring rights and freedoms of internally displaced persons”.

The court proceeded from the fact that the latter was adopted much later and came into force only on November 22, 2014, and therefore the person could have not and should have not coordinate his actions with the specified law.¹³

4. It is also problematic to acquire an IDP status for those who, previously to the conflict in the East of Ukraine (and/or sometime after its beginning), de-facto resided in the territories where were military actions or other circumstances that caused them to leave their homes, but officially had another place of residence. This situation is quite widespread in Ukraine however it contradicts to the requirements of the current legislation.

Thus, in one of the cases, the person indicated that since 2006 she was officially registered at the one address, but actually lived in another place. She was refused the IDP status because of the lack of a registration stamp about her residence on the administrative-territorial unit from where the displacement was made. The plaintiff provided the commission with such evidence of her de-facto residence in Donetsk agglomeration as job registration at PAO “Raiffeisen Bank Aval” in the Donetsk Regional Branch, the birth certificate of her child born in Makiivka, her health services records in Donetsk agglomeration since 2013. The court refused to comply with this claim. Moreover, the court’s decision specifically emphasised that it protects only rights, freedoms or legitimate interests that had already been violated by the time of the trial, while at the moment of that trial, there were no established fact of violations of the plaintiff’s rights due to the absence of her IDP status. The fact that such a status may be required from the plaintiff in the future does not comply with the protection by the Code of Administrative Justice of Ukraine since the protection of future rights is not in its jurisdiction.¹⁴ In other words, the fact of refusal an IDP status per se is not considered as a violation of law by the court.

¹³ See Resolution of Zaporizhia Regional Administrative Court dated May 18, 2015 in case No. 808/2230/15 // <http://www.reyestr.court.gov.ua/Review/44344969>.

¹⁴ See the Berdyansk city district court ruling dated January 24, 2017 in the case No. 310/8280/16-a// <http://www.reyestr.court.gov.ua/Review/64389823>

5. In another case¹⁵, an IDP appealed to the court with an administrative lawsuit **on the recognition of the unlawful actions of the Office of Labour and Social Protection of the Population as unlawful and discriminatory and on the obligation to take certain actions.** In support of the claim, the plaintiff noted that **he requested an IDP status.**

He explained that he and his wife had been living in Donetsk until July 3, 2015. Officially, neither he nor his wife was registered there because they sold his wife's apartment few years ago and they invested money invested in entrepreneurial and charitable activities. After numerous incidents of human rights violations, abductions, robbery began, when the non-government-controlled military forces had entered Donetsk himself, his wife and his mother moved to the city of Berdyansk, then to Zakarpattya, and since October 2014 they had been living in Rivne.

The plaintiff's representative in court pointed out that the provisions of Part 2 of Art. 4 of the Law of Ukraine "On Ensuring Rights and Freedoms of Internally Displaced Persons" insofar as it concerns the requirement for gaining an IDP status to have an official registration in the non-government controlled territory of Ukraine at the time of occurrence of mass violation of human rights or other violations determined by law contradict Part 2 of Art. 2 of the Law of Ukraine "On Freedom of Movement and Free Choice of Place of Residence" and violates Art. 14 of the "Convention for the Protection of Human Rights and Fundamental Freedoms" in conjunction with the Art. 1 of the First Convention Protocol. He asked the court to recognise the fact of discrimination on the grounds of the absence of an official registration by the place of de-facto residence. The court was provided with proper evidence that by 03.07.2014 the plaintiff without an official registration was actually residing in Donetsk. The court proceeded from the fact that the actions of the defendant regarding the refusal of the plaintiff to be taken as an internally displaced person and the issuance of the certificate with an IDP status cannot be considered as that to be based on the Law. In accordance with Parts 1 and 2 of Art. 8 of the Code of Administrative Proceedings of Ukraine the court ruling in the case was guided by the principle of rule of law, according to which, a person, her/his rights and freedoms are recognised as the highest values and determine the content and direction of the state functioning. The court applies the rule of law, taking into account the jurisprudence of the European Court of Human Rights. According to the practice of the ECoHR, in particular paragraph 62 of the decision from 20.09.2012 in the case *Fedorchenko and Lozenko v. Ukraine*, "discrimination means a difference in treatment which is not based on any objective and reasonable reasons, to persons in relatively same circumstances"... This is exactly the situation

15 See Resolution of the Rivne City Court of Rivne Oblast dated March 27, 2015 in the case No. 569/2646/15-a // <http://www.reyestr.court.gov.ua/Review/43654403>.

regarding the attitude of the respondent to the plaintiff in comparison with other persons who were also forced to leave their places of residence in the Donetsk and Luhansk oblasts. After all, other persons, who had the stamps of official registration in their passports on the non-government-controlled areas, were granted an IDP status on the basis of their registration but the plaintiff's application was denied. The fact these provisions are legitimised at the level of the national law is not justifying the discriminatory character of this norm. "... The way of provision of social benefits to IDPs provided by the Law of Ukraine "On the Guaranteeing of the Rights and Freedoms of Internally Displaced Persons" in conjunction with the "Procedure for the Provision of Monthly Targeted Assistance to Displaced Persons from the Temporarily Occupied Territory of Ukraine and Areas of an Anti-Terrorist Operation to Cover the Costs for Living, Including Housing and Communal Services", do not comply with the principle of the rule of law and the provisions of Article 14 of the Convention in conjunction with Article 1 of the First Convention Protocol. During the court session, a less favourable attitude towards the person was shown in comparison with other persons who forcedly left their place of residence in Donetsk. The only reason for such an attitude was the lack of registration of his place of residence on the place of actual residence. The court considers this attitude to be manifestly unlawful and discriminatory, since it has no objective and reasonable justification, namely, it does not pursue a legitimate aim.

According to Art. 14 of the "European Convention for the Protection of Human Rights and Fundamental Freedoms" of the enjoyment of the rights and freedoms recognised in the present Convention must be secured without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, membership of national minorities, property status, birth, or other characteristics. According to Part 2 of Art. 2 of the Law of Ukraine "On Freedom of Movement and Free Choice of Place of Residence" permanent or temporary registration or its absence cannot be a prerequisite for implementation of rights and freedoms or a reason for their restriction. Thus, the reason for the less favourable attitude to the plaintiff was defined as the other characteristic in the understanding of Art. 14 of the Convention, namely the absence of registration at his de-facto place of residence in Donetsk as of the date of departure from Donetsk in July 2014. ... Thus, the court found the defendant's position unlawful and discriminatory".

6. Lack of certainty of official regulation also leads to controversial situations in cases where a person moves involuntarily within one settlement.

Thus, in one of the cases, a person applied for an IDP status due to the forced displacement due to the reason of the demolition of a dwelling as a result of hostilities), but the Department of Social Protection of the Population denied her the status, indicating that the current legislation does not grant the IDP status to those persons who changed their address within

one municipality. The court proceeded from the fact that the reason for the application of an IDP status was the abandonment of her place of residence in connection with the circumstances specified in Art. 1 of the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Persons”. In this case, the place of residence is a specific dwelling, not a municipality. The current legislation when registering an internally displaced person does not establish requirements for changing the place of residence, neither within nor outside one municipality. This gave the reasons for a claim.¹⁶

7. In social protection sphere the significant problem the lack of certainty and frequent variability of legislation, as well as the contradictory nature of judicial practice, are the biggest barriers. In one of the cases, the court, when trying a claim for **an unlawful refusal to provide a social payments for a child-birth**, cited the following argument that deserves special attention: “The Law of Ukraine “On State Assistance to Families with Children” does not provide grounds that would give the defendant the right to refuse the plaintiff in the appointment and payment of the social benefits, based on the decision of a city council or on the procedure for the appointment of social benefits, or in the absence at the place of actual residence.

The Resolution of the Cabinet of Ministers of Ukraine “On Certain Issues of the Implementation of Social Payments to Internally Displaced Persons” referred to by the defendant is not a Law and cannot restrict the rights of citizens established in normative legal acts of higher legal force. The plaintiff and his child are citizens of Ukraine have the same constitutional rights as other citizens of Ukraine and cannot be restricted in their right to social protection on the basis of residence. The absence at the place of actual residence cannot be the reason for refusal to appoint social benefits, the right to which a person has according to the law. **Failure to fulfil by the state its social obligations with regard to individuals, puts citizens in unequal conditions, undermines the principle of individual confidence in the state, which naturally leads to a violation of the principles of a social state with rule of law.** These requirements to the state are set forth in Article 12 of the European Social Charter (revised), ratified by the Law of Ukraine dated September 14, 2006. According to it the state is obliged to support of the social security system on the satisfactory level and to make efforts for its gradual strengthening. Thus, the plaintiff’s right to receive assistance is indisputable and the ensuring of this right is the essence of obligation assumed by the state. This conclusion was achieved by the courts of the first instance and appellate courts taking into account the legal position of the European Court of Human Rights, set forth in the case of “Ilascu and others v. Moldova and Russia”,

¹⁶ See the decision of the Mariinsky district court of Donetsk region dated May 24, 2017 in the case No. 237/1543/17 // <http://www.reyestr.court.gov.ua/Review/66796120>

which established the state's duty, even in the absence of proper effective control over part of its own territory, to take measures under its authority and in accordance with international law to protect the applicants' rights guaranteed by the Convention. In addition, in compliance with clause 1, part 1, Article. 92 of the Constitution of Ukraine, rights and freedoms of a person and a citizen, the guarantees of their implementation and the main responsibilities must be determined exclusively by law adopted on the basis of the Constitution of Ukraine and must comply with it. Verkhovna Rada of Ukraine may amend the law solely by law, and not by means of the adoption of a by-law legal act. With regards to this, the court ruled that the decision by the defendant to refuse to appoint the plaintiff under a by-law act was violation of the right to social protection, thus unlawful.

According to Art. 33 of the Constitution of Ukraine, everyone who legally resides in Ukraine is guaranteed freedom of movement, free choice of place of residence, the right to freely leave the territory of Ukraine, with the exception of restrictions established by law. Right to freedom of movement and choice of place of residence within the state as an inalienable right for everyone is enshrined in the Universal Declaration of Human Rights of 1948. This right, like other human rights and freedoms, are inalienable, inviolable and cannot be subject to any restrictions, in particular, there shall be no privileges or restrictions on the grounds of place of residence. **Consequently, the absence of the plaintiff at the place of residence cannot deprive him of the right to receive assistance for the childbirth by the mechanism for the registration of internally displaced persons**".¹⁷

8. Legislative flaws and defects are as well a significant barrier to the effective observance of IDPs rights.

Thus, in one of the cases the plaintiff had to assert her right to receive targeted assistance in the three courts instances. The reason for the dispute was the fact that the plaintiff does not have the citizenship of Ukraine. She is a citizen of Georgia and arrived in Ukraine in 1994, since she has been registered and resided in the city of Horlivka, Donetsk region. Because of the conduct of the antiterrorist operation on the territory of Donetsk oblast, the plaintiff, together with her minor son, moved to Lubny in Poltava oblast in July 2014. The question of granting the IDP status (with the issuance of a relevant certificate) and attribution and payment of monthly targeted assistance to cover the cost of living, including the payment of housing and communal services, at the time of the filing the case were resolved by by-laws, which in their first edition provided the right as for granting the IDP status to a person who moved from a temporarily occupied territory of Ukraine or from the area of an Anti-Terrorist Operation and attributing a monthly targeted assistance not only to the citizens of Ukraine, but also for

¹⁷ The decision of Donetsk Appellate Administrative Court dated June 13, 2017 in the case No. 226/79/17 // <http://www.reyestr.court.gov.ua/Review/67123590>

foreigners and stateless persons who officially permanently reside in the territory of Ukraine. The Law of Ukraine “On the Protection of the Rights and Freedoms of Internally Displaced Persons” came into force on 22.11.2014. According to Art. 1 of the Law, an internally displaced person is a citizen of Ukraine permanently residing in Ukraine, who has been compelled to or has left his or her own residence as a result or in order to avoid the negative consequences of an armed conflict, temporary occupation, widespread violence, massive human rights violations and natural emergencies or anthropogenic in nature. Subsequently, by Law dated December 24, 2015, No. 921-VIII (entered into force on January 13, 2016), in particular, the article on definition of an IDP has been amended and provides that an internally displaced person is a citizen of Ukraine, a foreigner or a stateless person who is legally resident on the territory of Ukraine, holds the permanent residence permit in Ukraine and who has been forced to leave his/her place of residence as a result, or in order to avoid the negative consequences of an armed conflict, temporary occupation, widespread violence, massive human rights violations and natural emergencies or anthropogenic in nature. Courts recognised the plaintiff’s right for the attribution of monthly targeted assistance to internally displaced persons for coverage of their living expenses, including payment of housing and communal services.¹⁸

9. The similar problem is **the problem of retarded harmonisation of by-laws with the laws of Ukraine.**

Thus, one can cite as an example a case that is typical of the following category of cases: “The plaintiff appealed to the defendant for the registration as an internally displaced person due to the fact of the forced change of the permanent place of residence. The place of plaintiff’s birth is the city of Rovenky, Luhansk region, according to the information in his passport. Evidence of his residence on the territory of Luhansk oblast since childhood is also his college diploma and his military ticket. ... By the summer of 2011, he and his family lived in Dnipropetrovsk, after which they returned to the city of Rovenky. Their youngest daughter was born there, after that they received a temporary certificate from the executive committee of Rovenky city council dated 21.11.2012, about their status of a large family. On 03.05.2012, the plaintiff was employed by the Rovenky Enrichment Factory Ltd, and had been working there until the moment of the factory was closed on 01.08.2014. After that the plaintiff and his family were forced to leave the place of their permanent residence due to the active phase antiterrorist operation. On September 17, 2014, the plaintiff with his family moved to the city of Dnipropetrovsk (Dnipro). On 12.02.2016, the plaintiff received a written response from the defendant on the refusal to grant the plaintiff and IDP status as for a person who was forcefully displaced from the temporarily occupied territory of Ukraine and the areas of the anti-terrorist operation. The plaintiff requested the court to acknowledge the actions of the defendant regarding the

¹⁸ Decision of the Supreme Administrative Court of Ukraine dated 07/06/2017 // <http://www.reyestr.court.gov.ua/Review/67093035>

denial of registration as unlawful.

Representatives of the defendant in the court did not recognize the claims in full for the reasons that, since the Cabinet of Ministers of Ukraine had not brought its by-laws on the granting the IDP status into compliance with the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Persons”, thus the Management had no opportunity to register the plaintiff as an IDP. In accordance with Paragraph 3, Part 7, Art. 4 in the absence of a residence registration mark on the territory of the administrative-territorial unit from where the internal forced displacement under circumstances defined in Art 1 of the mentioned above Law took place in a document certifying the identity and confirming the citizenship of Ukraine or in a document certifying the identity and confirming the person’s special status, the applicant should provide evidence proving the fact of his/her residence on administrative-territorial unit, from which the internal displacement took place up to the day of the occurrence of circumstances that caused the internal displacement as determined by Art. 1 of the mentioned above Law (a military card with information on military service, records in an employment book, a document confirming the ownership of movable or immovable property, a certificate of basic general secondary education, a certificate of comprehensive secondary education, documents on vocational education, a document on higher education (doctoral degree), a certificate from the educational institution if still studying, a decision of a district administration of the city of Kyiv or Sevastopol, of an executive body of a city or district in a city on the placement of a child to a kindergarten, in a foster care, a family-type care, guardianship, medical records, photos, videos, etc.). The fact of residence of the plaintiff in the city of Rovenky of the Luhansk region at the time of beginning of the anti-terrorist operation was confirmed by him in accordance with Paragraph 3, Part 7 of Art. 4 of the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Persons” by a birth certificate of his youngest daughter issued by the Department of State Registration of Civil Status Acts of Rovenky City Justice Department in Luhansk Oblast on August 09, 2012, by the certificate of the Rovenky City Council Executive Committee on granting the status of a large the family, the plaintiff’s employment record book, according to which he was working at the LLC Rovenky Enrichment Factory from 03.05.2012”. ... The court criticised the respondent representatives’ explanations that they had have no opportunity to register the plaintiff with an IDP status before the Cabinet of Ministers of Ukraine amended the resolution No. 509 “On the Accounting of Internally Displaced Persons” dated 10.01.2014, since the mechanisms for the exercise citizen’s rights to be register with an IDP status according to the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Persons” were absent. The defendant’s reference to the Resolution of the Cabinet of Ministers of Ukraine, in the opinion of the court, is a not ground for refusal to meet the claim, as the law of Ukraine have higher legal force than the Resolutions of the Cabinet of Ministers of Ukraine. Thus, in the given legal relationship, the defendant should use the provisions of the Law of Ukraine “On Ensuring

Rights and Freedoms of Internally Displaced Persons”. Taking into account that the absence of appropriate mechanisms for implementation of legitimate rights of citizens cannot be the reason for refusal to ensure the social protection of the plaintiff, the court in accordance with the Laws of Ukraine, ruled that the plaintiff as a person that have been internally displaced from the territory where the negative circumstances related to the consequences of an armed conflict, temporary occupation, etc. have arose has the right to be registered with an IDP status in accordance with the Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Persons”.¹⁹

10. An obstacle to the implementation of internally displaced persons rights can be the formal approach of judges to the application of the current legislation.

Thus, the plaintiff informed the court that he was an internally displaced person and lived for a long time in the territory of the Autonomous Republic of Crimea. From 20.02.2014, in connection with the Russian military aggression, the temporary occupation of the Autonomous Republic of Crimea began. On June 11, 2014, her daughter was born in the temporarily occupied territory; the birth certificate was issued on November 12, 2015 by the Department of State Registration of Acts of Civil Status of the District Administration of Justice in Kherson oblast. The family left the territory of the Autonomous Republic of Crimea two minor children only in late July 2016 and they temporarily settled in the city of Ternopil, where on July 29, 2016 the plaintiff applied by the corresponding application to the social protection services for social payments for children. However, without waiting for a response, the whole family moved to the city of Lviv on 05.08.2016, where the plaintiff on January 1, 2016 reapplied to the defendant for the appointment and payment of her state social assistance in pregnancy and childbirth and the state social assistance at the birth of the child. However, the respondent by letter dated November 24, 2016, denied her the appointment of the mentioned types of state benefits, with reference to the fact that she did not file a corresponding application within 12 months from the moment of birth of the child. The plaintiff explained that during the 12 months since the birth she has been on a temporary occupied territory without leaving it. Pure transport connection with the occupied territory and the permanent illness of her new-born daughter made impossible to fulfil the requirements of the law in terms of the deadline for filing an application. Moreover, the occupation authorities stated that individuals who were born on the territory of the Crimea after the “referendum” were citizens of the Russian Federation, respectively, she was afraid of crossing of the administrative border with the Autonomous

¹⁹ Resolution of the Samara District Court of Dnipropetrovsk dated April 20, 2016 in the case No. 206/1544/16-a // <http://www.reyestr.court.gov.ua/Review/57410412>. See also the decision of the Dnipropetrovsk Administrative Court of Appeal from 08.09.2016 in the case No. 206/1544/16-a (2-a / 206/33/16) // <http://www.reyestr.court.gov.ua/Review/59813548>.

Republic of Crimea with a new born child. She received her daughter's birth certificate only on November 12, 2015, that is, after the expiration of the 12-month period, but after receiving the birth certificate, she submitted a statement within the prescribed time-limit. Upon satisfying the claims, the court of first instance came to the conclusion that the late appeal of the plaintiff's application for the exercise of his right to the state social assistance is due to the annexation of part of the territory of Ukraine, and the reasons for the missing terms of filing her application are valid, thus the claims of the plaintiff are legal and meet the interests of a minor child. However, the Court of Appeal stated that the 12-month period indicated was not renewable, thus the possibility of its extension by law or any other act is not provided. The meaning of such a term is to terminate an action in certain circumstances. ... the end of the prime term leads to the termination of subjective rights and obligations. The Court of Appeal also noted that such a period was extended enough for a person wishing to take advantages of the said types of state assistance to be able to exercise it.²⁰

11. Equally formal is the court's approach that disagreed with the plaintiff's arguments that she was deprived of the possibility of applying for a pension within twelve months after her husband's death due to the fact that her passport was withdrawn by border guards of illegal armed groups and she could not leave the temporarily occupied territory of Donetsk from August 2014 to April 2016.

The Court of Appeal indicated that it considered the given reasons groundless, since no evidence had been provided by the plaintiff for its confirmation.

12. There is an example when the lack of clear requirements in normative legal acts that regulate any IDPs' issues, led to the need to resolve the disputed in court.

The internally displaced person was assigned a monthly targeted assistance to cover the cost of living, including for the payment of housing and communal services in the amount of 442 UAH. In connection with plaintiff's termination of employment on May 13, 2016 on the basis of clause 1 of Art. 36 of the Code of Labour Law of Ukraine and the establishment of another form of labour relations with the employer from 01.06.2016, the amount of assistance for the following two months has been reduced by half, and for the further period the payments were terminated due to the absence of an official employment. By the order of the city employment centre dated 05.24.2016, the plaintiff received the official unemployed status

²⁰ Resolution of Lviv Appeal Administrative Court dated May 29, 2017 in case number 876/3535/17 // <http://www.reyestr.court.gov.ua/>
Review/66850500

and she was assigned an unemployment assistance, but according to the civil law contract dated 31.05.2016 she performed work on the organisation and conduct of managerial training under the programme of commercial university. The contract was terminated on August 15, 2016. On August 29, 2016 she signed a new civil law contract starting from 22.08.2016 until 31.12.2016. Since a civil law contract is concluded, the single contribution to the compulsory state social insurance is paid on plaintiff's behalf: the period of work under civil law contracts is credited to the insurance record. Information about enrolment of insurance experience under civil contracts is reflected in the register of insured persons of the State Register, which is used as well by the labour and social protection agencies. Therefore, the plaintiff within the interpretation of paragraph 7 of the Procedure for providing monthly targeted assistance to internally displaced persons to cover residential expenses, including payments for housing and communal services, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 10/01/2014 No. 505, cannot be considered as not employed, therefore, the defendant's action regarding the refusal to appoint monthly targeted assistance to internally displaced persons is unlawful. Accordingly, the conclusion that the mandatory condition for the appointment of monetary assistance to able-bodied persons should be the availability of their employment in accordance with the Labour Code and that the concluded civil law agreement does not indicate employment are false.²¹

21 See Resolution of the Dnipropetrovsk Administrative Court of Appeal dated June 14, 2017 in case No. 212/7009/16-a // <http://www.reyestr.court.gov.ua/Review/67242184>

Forced displacement – challenges and answers

According to the employees of the IDPs supporting organisations, the majority of their clients are women, the same situation is with the statistics of contact line crossing:

“There are more women, especially pensioners. The retired are addressing for help with pensions, problems with pensions (note: with the payment of pensions)”.

“The majority are women. Even when we work on the entry-exit checkpoints, in the queues up to 100 person 80% among them are definitely women”.

Commentaries of the employees of the supporting organisation, surely, include the most outrageous cases, especially when it comes to women’s marginalisation. But personal stories of the women collected by the research team describe as well traumatic and difficult experience. In the frames of the analysis the researchers have not isolated separate established groups for comparison. However, both, common challenges for women, they met as internally displaced persons, and differences, related to the circumstances of their displacement and their social and economic situation at their new place, were found.

Circumstances and causes of displacement

Employees of the supporting organisation name different causes for different social groups: absence of job opportunities or other sources of income, destroyed infrastructure (electricity, water, gas) and homes, physiological trauma of their children. During the interviews women stated such motivations for the displacement that are possible to qualify as direct endanger of their lives: shelling or personal threats. There are certain differences in circumstances of displacement and in choices of the new places for living.

“When the referendum came to the city and it was announced that the presidential elections wouldn’t take place in Luhansk I have decided that we should go. At the time, the events with beatings, offences, persecutions, imprisonments, cellars have already started. All these things have happened with the persons that were doing the same things as me. There were no military actions yet”.

IDPs that left in 2014 said that they were not prepared for the long term displacement and packed their belongings only for couple of weeks.

“I was sure everything would end after the elections that this was the thing for the elections and everything would calm down after the president would have been elected”.

“Everybody was leaving. First, we spent several days at friends’. Then in two weeks

my parents brought my son”.

“At present, there is no electricity and water at Opytnyi for five years. Approximately a month ago the ‘Red Cross’ launched social bus twice a month so people can go to Avdiivka. The most of people left [...]. Those who left they have limited access. A lot of them would like to bring their spared belongings but they don't have the permission to pass”.

Among the most frequent causes of displacement during the last year are active military actions, demolition of homes and shut-down of the access to the municipalities of so-called ‘grey zone’ and ‘red zone’ (as Chornyi Buhor near Toretsk).

Respondents that were displaced within the same municipality as a cause for their displacement point that it is no longer possible to live at their homes because of their demolition (Mar'inka, Avdiivka and forcedly displacement from the occupied part of the Zolote-4. The important factor that is named as well is the possibility of finding a job with the help of acquaintances.

Housing, infrastructure

Search for housing as a challenge was stated by all women that experienced the displacement from the non-government controlled areas and ATO zone to other regions of Ukraine.

“It's better now. You can find a place to live but only for rent. Programs accepted at the governmental level, municipal housing... In Konstantynivka you cannot even dream of it, there are no new apartment buildings, nothing is under construction, and there is no action taken by the local authorities for providing IDPs from secondary house market. [...] The municipal housing fund exists and we have monitored it. Only two flats were provided. And they need repairing thus one's need to provide money from the local budget for the repairing works. There are approximately five thousand of IDPs and only two flats. It's nothing”.

The employees of the supporting organisations are speaking about the tendency for returning to the non-government controlled territories if their homes were intact.

“My sister has returned home to Luhansk from Mykolaiv. She is on maternity leave and it's cheaper for her”.

“If a local loses his job he will find some eventually, he has where to live. If an IDP has a job but no place to live in, he has no choice but to return. The same if there is a place to live but no job one cannot pay for the place. Why people are returning? They cannot find their place, either they have no job or they have no place to live”.

The issue of mobility and accessibility of transport infrastructure is particularly acute.

“Two parts of our town are split with a river and you can't get from one part to the other after 6 p. m. Thus if a person works on the other side, the only option in

the evening is a taxi”.

Often it is hard to get necessary services or satisfy certain needs in the places they reside and women are obliged to go to the bigger city. For women with the reduced mobility it is practically impossible thus they are obliged, for example, to pass their bank cards to the third parties to get their pension or other social payments. First of all, it concerns elderly women and women with disabilities but women with small children are facing the same challenges too. None of the respondents have seen the transportation adjusted for wheelchairs or strollers.

“As a rule we have tiny marshrutka-buses, ‘gazelkas’ for 15 seats. I think, there is several ‘bohdans’ and only two proper buses that go to the remote village. But in the town there are only tiny ones”.

The inhabitants of the summerhouse zone ‘Olkhivski dachi’ that has no status of a municipality are facing specific problems caused by their status: the price for electricity consumption is higher because of their official status of summerhouse zone although de-facto all these houses are used as permanent residences not as summerhouses.

Sources of income, financial independence and working rights

For female pensioners their pension, social payments and humanitarian aid are their main income. The majority of the ‘urgent aide’ to IDPs is ceased, only some of the projects along the contact line have left. At present, delays or cancelling of pension or social payments are the most wide-spread problems for the IDP female pensioners.

Women of working age speak about limited range of opportunities for employment; the most obvious opportunities are small commerce, educational and medical institutions if there is a proper education. As for the discrimination IDPs in reference to 2014-2015 are stating that currently the situation is with non-discrimination is better but not with the availability of vacancies.

“As I displaced, I faced this myself. There were no jobs anywhere... I went to the shop, although I have a higher education, I wanted to be a saleswoman but I was told that they “wouldn’t take IDPs because they will teach them and then they will go away and they would spend their money and resources in vain”.

“You can be a saleswoman at the market. If you have an education as a teacher, an educator... At kindergarten, at hospital I know lots of those who find a job. If those were doing business they have reregistered here and continue”.

“You need to work somewhere; you need record of service, money. All the time during the actions I was earning in the Internet [...] Money comparable to those in the mine. Copywriting, rewriting. Came here, among the people. There is no sense being there, under shellfire. [...] Why I returned to a mine? First of all, I know this, not

to start from the scratch. Secondly, there is no many choices. Either in the small commerce, markets, shops. Nothing to choose from”.

“Market, newly opened supermarket – you can get a job there. [...] I found a job in two month. There is an employment centre, I don’t know if it’s effective”.

Unfortunately, even official employment does not guarantee financial stability if the field is in crisis.

“I work in the mine and we have arrears for five month. We are getting our payments in small pieces; a week ago we have got our summer and September wages. [...] The miners are getting their wages from so-called treasury, but the office gets their wages from sales. There are no stable sales thus the arrears are growing”.

Additional complications for the women that work are inspections of providers of state social services.

“I am facing these checks myself - it’s just awful. When you work, but you need to stay at home and wait for a check. I do not get the allowance for myself; I get it for a child. Clearly, according to the decree, it is written that if a child studies at school or in kindergarten, there should be a note from school. It would be logical for social services just to request such a note, the school confirms that the child studies and there is no need to check anyone. No, it’s still necessary to make this act at home. When you are working, an inspector arrives, leaves this message and you must go to the social services within three days. This, of course, is a problem, and many mothers who work are outraged: “Should we not work, or what? Sit and wait for the inspector?”

A separate challenge for supporting organisations is the distribution of humanitarian aid among similar vulnerable groups. Instead, they note, full families on the contact line are in no less vulnerable position due to the lack of any employment opportunities and, at the same time, without psychosocial or humanitarian support. In these conditions, families collapse de-facto and formally to receive social payments, benefits and subsidies. Similarly, in order to improve the financial situation, women are registered as single mothers, even if they live together with their child’s father.

Access to educational services

Respondents obviously did not associate themselves as recipients of educational or educational services, mainly bringing this sphere to the needs of children and parents. At the moment, there are no problems with the access of children of IDPs to school and pre-school education in the current places of the respondents' residence. Employees of supporting organisations identify problems in some municipalities on a contact line that are not covered by this research.

The subjects of vocational training, additional education, training, retraining within the framework of programmes of the employment centre were associated by the respondents with employment or professional activity. Training courses or trainings related to other competences were not mentioned.

Access to health services

Emergency medical services work both in the cities and at the contact line; military doctors, volunteer doctors and "Doctors Without Borders" help as well. The vast majority of respondents signed without complications agreements with a physician within the framework of medical reform. However there are a lot of complaints concerning specialised assistance. Women on the contact line especially complain about lack of certain specialists, inaccessibility to diagnostic complexes, long distances.

"It was necessary to go to an otolaryngologist and he was not present. And you know, we now have military men here, coming from those regions, from the western ones, volunteering doctors. But we got in between. The previous one has gone and the other hasn't arrived yet. The surgeon is here, the therapists are here".

"There are stories where the girls gave birth here, just on the chair, because the term was wrongly defined. But you have to go either to Rubizhne or to Starobilsk. Death and labour are not waiting. [...] None of the doctors wants to move here. The government have made a programme, [...] have allocated apartments, just come and live. We will give a flat, there is a job. No one comes, only volunteers from time to time".

"Donetsk was in 15 km. Now it is necessary to go for 100 km, and still the quality of services is not as good as we want".

There are cases when patience is referring to specialists remained in uncontrolled areas. None of the respondents have made a comprehensive, routine screening, including oncology screening, over the last few years. Exceptions were only in cases of involuntary hospitalisation.

Access to administrative services

The problems faced by IDPs in terms of access to administrative services arise from several main reasons: the lack of local governments or other bodies with relevant powers, problem with transport and inaccessible infrastructure.

In particular, problems arise in situations where it is necessary to make an act of house demolition or unsuitability for living. These problems are faced extensively by former residents of “closed” settlements.

“There are four municipalities in Yasinuvatsky District, in which there is no local self-government. People cannot register in-out, get any documents, acts. There is a program “Affordable Housing”. But without an act that confirms that one’s house has been destroyed, people cannot join the programme. A person cannot receive an act, because the commission refuses to come worried for its safety. Coming for the damage estimation is dangerous, but to live in this locality is safe. People cannot go to court to get compensations, for example, they cannot participate in the programmes”.

“Elections were not held, deputies self-disbanded, wrote an exit and they have no quorum. From February [2018] city lives on 1/12 of its budget, the sessions are not gathered, the budget is not allocated. [...] There is no mayor, he has gone, there is a secretary, performing his duties. The secretary works, the executive committee works, and deputies are not gathering. MCA was not assigned to us. In Schastya, the self-governing community was formed among the firsts, but the CEC did not appoint an election to us, therefore, the process is not over. Only protected budget lines are wages. It’s already been a year, as deputies are not gathering, there is no mayor, there is no UTC [note. in January 2019, a decree was signed on the establishment of the MCA in the city of Shchastia²²]”.

In the village of Zolote-4, several streets that were re-occupied by the combatants in September 2018; the IDPs registered there have difficulties with obtaining their status because of the “unverified fact of occupation”.

“Someone has to answer that these streets are occupied, then somehow ... Local MCA said that it was not in their authority to establish the fact of occupation. As if it can only be set up by the OUF headquarters. [...] But if the streets are recognized occupied, pensions will immediately be blocked”.

The situation in various municipalities is quite different; much depends on the “human factor”. For example, in Avdiivka (Donetsk region), a whole group of displaced persons has difficulties with the registration of their IDP status and payments. All of these persons are former

22 Decree of the President of Ukraine No. 13/2019 On the Establishment of a Civil-Military Administration. Access mode <https://www.president.gov.ua/documents/132019-25934>

residents of a multi-apartment building in the suburbs of the city. The building is badly damaged by shelling; some of its apartments are currently occupied by the military. Despite the existence of acts of destruction, there are problems with the registration as an IDP and the allocation of benefits. In the neighbouring Marinsky, there were no such problems with registration.

At the time of the survey, the respondents noted that the process of receiving services is seriously complicated by the lack of convenient transport connection and the lack of access to the transport infrastructure for certain categories.

“We were approached by a woman with two children with disabilities. The family is well socialised. An older child is 18, he has autism and “hard mental retardation”. A daughter is two years old, she has epilepsy and delayed development. The eldest son stopped receiving social payments, now it’s necessary to obtain him a status of disable incapacity and formalise the guardianship. The incapacity is issued through the court, and she [note. this woman] came to us, said, “How can I go to Zaporizhzhya with those two for the commission?” A court was in Selidovo, she was sent to a commission in Zaporizhzhya, and one more hearing will be held later”.

So, the settlement of Zolote belongs to the Popasnyansky district, and to get administrative services it is necessary to go to Popasna, which is geographically relatively close, but the transfer by public transport is extremely uncomfortable, the schedule does not interfere with hours of admission in institutions and many hours of queues. Thus, a car is often used to travel.

“We had been making a death certificate for our father in Novyi Aidar for the whole year. For a very long time, his younger sister was trying to get a survivor’s pension. It’s good that a passport desk comes here. ... But they don’t have the equipment here; they are going through documents here, but one still need to go to Aydar. But, at least, you will not send back because something is missing. They can see here whether one have a complete package of documents”.

And employees of supporting organisations, and interviewed women of retirement age name the work of pension fund institutions as the most unsatisfactory. Moreover, the employee’s dismissive attitude and worker’s negligence, as well as lack of electronic queues are noted.

“Husband receives pension, and my documents are lost again. We live together, one day we checked together. His was all right, but they hadn’t found my check”.

Access to justice

Only one of the respondents filed a lawsuit, the others said they would be ready to contact the judicial system to uphold their rights only in case of critical necessity and complete lack of other options.

Employees of humanitarian and human rights organisations listed actions on civil cases they are aware are acquisition of alimony, permissions for the departure with a child, establishment of care for people with disabilities, establishment of the facts of birth and death. The most widespread categories of such cases are the collection of pension arrears and the renewal of payments.

Among the main obstacles of women's access to justice it is necessary to highlight the inaccessible transport, low mobility of women of particularly vulnerable categories, lack of funds, inhomogeneous jurisprudence regarding satisfaction of requests for court fees and postponing of meetings.

As it was noted above, significant changes occurred in the administrative subordination of cities near the contact line during the conflict, respectively, these changes also affected the judiciary. The Supreme Court of Ukraine approved the list of local and appellate courts where it is impossible to administer justice and issued appropriate instructions on the definition of territorial jurisdiction of cases.²³ Some courts have resumed their work: for example, the Marinsky district court of the Donetsk region has resumed its work in the city of Kurahovo.²⁴ But, predominantly, plaintiffs have to cover significant distances between their places of residence and places where the judicial authorities were transferred. For example, cases under the Stanichno-Luhansky district court of Luhansk region until 31.03.2016 were tried at the Novopetrovsky district court, in 150 km distance; after 31.03.2016 the cases were tried in the district of Bilovodsky district²⁵, 70 km from Stanitsia Luhanska.

“They [military] when they settled in joined our meters. They screwed 5.5 thousand kilowatts. We wrote to Mariupol that we didn't live there anymore but they answered that they were counting de-facto, you can go to the court. I went to the military commandant and he says, “What can I do? They rotate, from whom should I demand “[...] A court in Selidovo is not that close, we will not be able to go there because of our health. In addition, now the courts are paid, how will we pay for the lawsuit? We have small pensions, we still pay for the apartment”.

“When I applied for my divorce and appointment of alimony, I was sent to the Dnipropetrovsk region where Makiivsky court was moved. They said if I added an

23 Supreme Court of Ukraine. Ordinance on the definition of territorial jurisdiction of cases. Access mode: https://supreme.court.gov.ua/supreme/gromadyanam/terutor_pidsudnist/

24 Marina District Court of the Donetsk region. Access mode: https://mr.dn.court.gov.ua/sud0533/pro_sud/contacts/

25 Supreme Court of Ukraine. Ordinance on the definition of territorial jurisdiction of cases. Access mode https://supreme.court.gov.ua/userfiles/rozp_6_0_38_16_2016_01_25_1.pdf

IDP certificate and explained why I could not go with a child in the Dnipropetrovsk region they could allow me to have hearing here. They go for compromises, but still those who know can defend their rights and those who don't..."

Safety

Women living near the contact line associate the notion of security with the physical security, or namely, with shelling.

Respondents were also asked explicit questions on street lighting, conflict situations with military, street attacks and violence, and crime rates. From the answers to these questions, one can assume that women who live in a combat zone either do not face potentially dangerous situations in this context (for example, they do not leave the house in the dark hours of the day due to the probability of shelling) or do not evaluate them as a danger. For example, in one of the cases, after the interview was finished, it has become clear that there is a huge problem with large groups of homeless dogs, especially in the evenings.

Domestic violence against women and children also was not mentioned in the security context. Asked explicitly, the respondents mostly have replied that such cases exist, as they have existed before the war, but now they have become less visible. The supporting organisations indicate known to them isolated cases and ineffectiveness of existing mechanisms for counteracting violence on the contact line. According to them, the relevant institutions do not have resources and authority to provide assistance and to remove children even in the most critical cases.

"It is not really our profile, but sometimes it turns out to be ours. More often, people don't come for the next consultation. [...] These are isolated cases, although there should be a lot of textbooks on violence. [...] In the previous project, we conducted a questionnaire here, a list of situations: mark what you consider to be violence. There were all kinds of violence, different situations. There were a lot of questionnaires indicating, for example, that sexual violence is just a sexual intercourse. And there were all sorts. So, I think, maybe everything is there, just do not assume it as violence, thus, do not complain. "If he beats you, it means he loves you".

"Centres are needed, especially for frontline municipalities. Thus a mother with a child could live there, where psychologists, social workers can work with a woman, so she can make some decision, for example, to leave her husband".

Regarding crimes, the respondents pointed out robberies in abandoned apartments. Employees of supporting organizations in Schastia and Avdiivka stress upon regular street patrols.

In Konstyantynivka and Kramatorsk, respondents say they fear of attacks and robberies. Separately, they state that due to the difficult financial situation they are forced to rent housing near marginal neighbourhoods, in precarious and remote areas, with insufficient street lighting and “invisible” police patrols.

“My client is a nurse; she works in an emergency room. We have a park. So there to get a girl’s cell phone the attackers cut throat. The girl survived, but I was very scared of this case. Once I was attacked the city when I just moved in, around 3 or 4 p. m. at the daylight. Local people say that the old part of Kramatorsk has always been precarious. High level of migration, people come and leave”.

Social and psychological support

The situation in various municipalities is very different.

“The social services exist, but they mainly serve as a mailing service, they do not make decisions, but transfer documents. This is a big advantage because you do not need to spend your money and your time”.

“There are two or three employees for 22,000 people within highly troubled area. It’s physically impossible to cover all by social services. There is need for special brigades to take care of incidents immediately. As soon as a certain situation drove a mother into stress, as soon as a mother starts to drink ... In the war situation, with no jobs, she simply falls short or goes wildly. Men leave their families ... Mothers are not able to take care of their children, they just survive ... They are not provided with social services”.

“For elderly people there is social support. Caritas hired. [...] There are social workers, clearly, even the “Red Cross” employs, they even conduct training. Junior nurses - I do not know how it works. To care after grandmothers. But they have such criteria as absent of close relatives. If my mother wants such a care, she will not get it; I’m not yet retired, so I can take care of my mother. [The respondent has problems with the heart but does not applied of the disability status] [...] And there are those who stayed, but the children left. They also do not provide support. And there are so many of them. There are state social workers, young girls working. The grandmothers order them to bring the humanitarian aid, go. The assist at home too: cook, clean, wash. Two or three hours per day. They do not take care of kitchen garden, otherwise they do everything”.

With regard to psychological care, women who have displaced from uncontrolled areas to relatively quiet cities indicate that they have been seeking for help because of severe stress, depression, emotional disorders and adaptation problems.

All women who moved within the same municipality on the contact line say that the services of a psychologist should be really necessary for children. Women of senior and retirement age emphasise that a psychologist is needed not for them, but for younger people, especially for children.

The main sources of information

Both NGO staff and interviewed women agree that the most effective channel for disseminating information is personal communication. No internet or print media were named. Separately, respondents noted the opportunity to watch Ukrainian TV channels through cable TV.

Recommendations

In the field of information and education activities

1. To conduct wide-ranging information campaigns to raise awareness among IDPs and to overcome stereotypical attitudes towards IDPs in local communities;
2. To organise training (with women as the main target group) of necessary skills to ensure their effective participation in post-conflict political processes;
3. To develop programmes for girls affected by the conflict, in particular those who were forced to leave school or higher education, in order to minimise their stressful return to education;
4. To include an educational component in humanitarian assistance programmes (decision-making skills, budget planning etc.).

In the field of financial and social support

1. To develop nation-wide targeted loan programmes designated female IDPs; to continue supporting women's entrepreneurial activities (take into account the fact that there are often no starting points or connections to start a business);
2. To provide the staff of executive authorities dealing with the IDP's issues with the required number of employees, raise their awareness of the women's rights during the conflict and post-conflict period, in international and regional standards for the protection of the IDPs' rights, in particular of vulnerable groups, to conduct training activities to improve skills and abilities of relevant officials from executive bodies;
3. To provide support to full families within the framework of humanitarian programmes. Traditional "vulnerable groups", including single-parent families, large families, people with disabilities, people over 75+ are, as a rule, on the lists of recipients of assistance and social benefits, payments.

In the area of infrastructure issues

1. To ensure proper infrastructure and communications on the territory of Ukraine adjacent to the contact line, as lack of proper infrastructure in this area forces individual to use facilities and schools located in a non-government-controlling territory of Ukraine. This situation have raised from the fact that there are no crossing points from people's residences, through which it would be possible for them to get to the school or other institutions on the territory of Ukraine.

In the area of administration of justice

1. To periodically carry out revisions of the legislation of the IDPs rights and their protection by the highest judicial authorities of Ukraine (first of all, those with specialisation in administrative issues) and make their generalisation that will promote greater certainty for court decisions of cases and predictability for legal regulation;
2. To use gender sensitive practice in conducting investigative actions and law enforcement activities during the conflict and post-conflict period. To involve women as investigators: women are not necessarily better than men in investigating and treating cases of gender-based violence, but the gender balance creates conditions for the victims of violence to feel more comfortable; ensure that women whose freedom is restricted are kept separately from men and that women are also supervised by women; the proper sanitation should be provided, women have to conduct personal search of women;
3. Organise trainings on gender issues and develop codes of conduct and rules for police and military personnel, including peacekeepers;
4. To enhance the capacity of security officials, healthcare professionals and court staff to collect and preserve evidence on cases of sexual violence in the conflict and post-conflict situations. In his turn, the UN High Commissioner for Human Rights stress the need to adopt adequate procedural rules to prove the facts of sexual violence in the conflict zone, knowing that in such circumstances, these facts are difficult to prove, thus, the standards of proof should be lower.

In the field of business and human rights²⁶

1. Business must adopt a policy of recruitment and working conditions that takes into account as prudently as possible the needs of vulnerable groups, in particular IDPs, using gender lenses and taking into account the conflict factor;
2. Ensure that programmes related to the demobilisation and reintegration of ex-combatants are developed and implemented in conjunction with the private sector (including female combatants and other persons involved in the military conflict, including women who did not participate in military actions);
3. Investors need to provide financial support and investment for women, cooperate with banks and financial institutions to bridge the gender gap in financial affordability;
4. Non-governmental organisations should bring to national and international actors information on the situation of women whose interests are affected by conflict, their needs and possible mechanisms for solving existing problems.

²⁶ Taking into account the recommendations <https://www.unglobalcompact.org/library/5638?fbclid=IwAR1xkiZGTFR2HBxjDDHgXekar0-tBLAY-YQO0evp4m2L1bd-Kqf82clg7zU>.

Geography of Field Research

Donetsk region

Among the features of the Donetsk region it is necessary to note the tendency to agglomeration, urbanization and high population density. There are 4 checkpoints for entry and exit in the Donetsk region: “Mayorske”, “Maryinka”, “Novotroitske”, “Gnutovye”.²⁷ The intersection of the contact line is possible by private transport or by foot that significantly affects the possibility.

Cities on the delimitation line: Marinka and Avdiivka belong to the Donetsk-Makeyevka agglomeration, Toretsk to Gorlovka-Yenakiyevskaya. It should be noted that the contact line crosses through agglomeration and “cuts off” these settlements from the regional centre. Thus, most of the usual services and employment opportunities for residents of these cities are not available.

Marinka borders with the Petrovsky district of Donetsk, its population is about 10 000 people. In 2015, during the attack of combatants so-called “DPR” the civilian infrastructure of the city was significantly damaged by artillery, work of enterprises was stopped. The distance to the administrative centre of the region is 120 km.

Avdiivka is located about 15 km to the north from Donetsk, about 100 km to Kramatorsk. About 20,000 people live in. The largest in Ukraine coke-chemical production factory is a city forming enterprise, it works continuously.

Toretsk is a miners’ city, the distance to the administrative centre of the region is 50 km, distance to the outskirts of Gorlivka 5-7 km. The population is about 35 000, together with settlements it rises up to 70 000. There are working mines in the city, but employees complain of extremely low wages and several months’ pay arrears. There is no direct railway connection to the city; the nearest station for suburban trains is 7 km away.

Kostyantynivka and Kramatorsk, the municipalities with a population of about 70,000 and 150,000, were released in 2014. Before the war, they were considered as small depressed cities. There is a railway connection, administrative institutions; industrial facilities and infrastructure were not destroyed. The smallest distance to the contact line near uncontrolled Gorlivka is about 60 km to Kramatorsk and 40 km to Kostyantynivka. Since 2015 Donetsk regional military-civilian administration is located in Kramatorsk.

27 Temporary procedure of control of the movement of persons through the line of contact within the Donetsk and Luhansk regions. Access mode: <https://ssu.gov.ua/ua/pages/32>

Luhansk region

It should be noted that the only one checkpoint of entry and exit works in Luhansk region. Besides, entry-exit checkpoint “Stanitsia Luhanska” works entirely in the pedestrian mode, thereby low-mobility people are additionally affected. In 2017, from Ukrainian side it was opened a checkpoint “Zolote” with lanes for cars and pedestrians, but it’s out of service because it is blocked by so-called “LPR”.²⁸ It is also necessary to note the critically poor state of asphalt covering of roads in the region, especially in winter, which complicates the connection between municipalities. The safe speed on some sections is about 10-15 km/h.

The vast majority of railway hubs and depots of the Luhansk region are located in uncontrolled areas. Inter-regional trains run only from Lysychansk.

Zolote is a settlement in Popasnya district (subordinated to Pervomaisk City Council until 2014²⁹) administratively unites some villages around coal mines. Now one of them, Zolote-5 is controlled by forces of so-called “LPR”. Contact line passed through Zolote-4, which was considered as “grey zone” before September 2018. Closed checkpoint “Zolote” is situated on the section of road between Zolote-4 and Zolote-1. Population is about 15 000. The local coal mines belong to the union GE “Pervomaiskvugillya”, the main office of the enterprise is situated in the uncontrolled city Pervomaisk. Now there are two active mines in Zolote - “Zolote” and “Karbonit”, the mine “Pervomaiska” located in uncontrolled Zolote-5.

Schastya is a town around forming enterprise Luhansk power station. Before 2014 it was administratively subordinated to Zhovtnevy district of Luhansk³⁰, distance to its outskirts is 17 km, at present the settlement belongs to Novoaidar district. Population is about 10 000. The contact line, in fact, runs along the river Siversky Donets, a few hundred meters from the last line of buildings.

Olkhivski Dachi is a summerhouse massive in Stanichno-Luhanskiy district, the distance to the contact line is about 10 km. According to the data of Humanitarian Mission “Proliska” there live about 1000 IDPs. There are four shops and a pharmacy, electricity and gas infrastructure. It’s necessary to go to neighbouring municipalities Stanitsa Luhanska or Vilkhova to get the other needed services.

Luhansk regional military-civilian administration was placed in Severodonetsk, which city infrastructure survived. The population is 100 000. There is no direct railway connection; the nearest stations are located in Rubizhne and Lysychansk.

28 The first automobile check point «Zolote» was opened in Luhansk region. Access mode: <http://loga.gov.ua/oda/press/news/na-luganshchini-vidkrili-pershiy-avtomobilniy-punkt-propusku-zolote>

29 On changes in the administrative-territorial structure of the Luhansk region [...]. Access mode: <https://zakon.rada.gov.ua/laws/show/1693-18>

30 On changes in the administrative-territorial structure of the Luhansk region [...]. Access mode: <https://zakon4.rada.gov.ua/laws/show/1692-18>

Analysis of State Programmes and Strategies not Specifically Gender-Oriented on Availability of Provisions that Takes into Account the Specifics of Situation of Internally Displaced Women

<p>Expected event</p>	<p>The relevant paragraph of the Concluding Observations of the United Nations Committee on the Elimination of Discrimination against Women on the concluding observations of the periodic report of Ukraine</p>
<p><i>I. STATE TARGET PROGRAMME on the restoration and development of peace in the eastern regions of Ukraine, approved by the Decree of the Cabinet of Ministers of Ukraine from December 13, 2017 p. № 1071³¹</i></p>	
<p>Creation of new jobs and increasing of the employment rate of the population, especially the most vulnerable groups:</p> <ul style="list-style-type: none"> implementation of activities, aimed at the development of women's leadership skills, and support to start their own business by women from rural areas <p>Indicator: the number of women, who started their own business (200 in 2017, 100 in 2018 and in 2019)</p>	<p>P. 37 e) Contribute to the development of entrepreneurship</p>
<p>Strengthening security in local communities and implementation of measures on preventing gender-based violence:</p> <ul style="list-style-type: none"> training of security trainers in the local communities as well as preventing and responding to gender-based violence (indicator: 20 trainers per year) training of local law enforcement officials on gender-based violence (300 people per year) holding training sessions for representatives of mass media and NGOs dealing with IDPs and issues of countering gender-based violence, in Donetsk and Luhansk holding round tables for strengthening security in local communities and preventing gender-based violence 	<p>P. 15 b) Provide appropriate training for lawyers, investigators, prosecutors and police officers in order to increase their capacity to investigate, document, and prosecute those responsible for sexual abuse in accordance with the International Protocol on Documentation and Investigation of Sexual Abuse in Conflict</p> <p>P. 28 b) Use innovative media-oriented measures in order to deep understanding of the real equality of women and men, as well as to strengthen the positive and not stereotypical view of women in all areas, with a particular emphasis on the education system</p> <p>P. 29 b) Take comprehensive measures to prevent and counteract violence against women and girls and ensure that those responsible are prosecuted and punished appropriately.</p>
<p><i>II. STRATEGY of the Internally Displaced Persons' Integration and Long-Term Decisions' Implementation on Internal Movement for the Period up to 2020³²</i></p>	
<p>The strategy is based on the principles of counteracting violence in conditions of international armed conflict, including gender-based one.</p> <p>The necessity of creation and sustainable functioning of the mechanism of intersectoral interaction (health care, psychological and social support, protection of public order, legal assistance) and interaction with the public are provided for further strengthening of capacity and coordination of activities in response to gender-based and other forms of violence. Specific measures are not included.</p> <p>In the project of the Action Plan for Implementing the Strategy a gender component is completely absent.</p>	<p>P. 17 a) To meet the specific needs of the various groups of internally displaced women, who are the subject of diverse forms of discrimination, including widows, women with disabilities, elderly women, women belonging to Roma or LGT, as well as provide long-term measures to meet the needs of internally displaced women and girls b) Provide effective implementation of the IDP Law by issuing normative acts that ensure its practical application c) Provide internally displaced women and girls with adequate access to health services, education, nutrition, housing, freedom of movement, registration, social benefits, justice and access to long-term solutions, as well as ensure them with stable employment.</p>

31 <http://zakon0.rada.gov.ua/laws/show/1071-2017-%D0%BF/page>.

32 <http://zakon3.rada.gov.ua/laws/show/909-2017-%D1%80>.

III. STATE SOCIAL PROGRAMME The National Plan of Action for the Implementation of the UN Convention on the Rights of the Child for the period up to 2021, approved by the Order of the Cabinet of Ministers of Ukraine from April 5, 2017 № 230-p³³

<p>No gender component</p>	<p>Provisions are aimed at:</p> <ul style="list-style-type: none"> · prevention and counteraction of gender-based violence against girls · taking into account the needs of the girls with disabilities, Roma girls, rural girls from IDPs and other vulnerable groups · improving the access of girls to digital technologies, etc. <p>P. 35</p> <p>a) Enhance efforts to revise school curricula and textbooks in order to eliminate negative stereotypes in relation to women and girls.</p>
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IV. STRATEGY of protection and integration of the Roma national minority into the Ukrainian society for the period up to 2020, approved by the Decree of the President of Ukraine from April 8, 2013 № 201/2013³⁴

<p>No gender component</p>	<p>P. 35</p> <p>d) Encourage Roma girls to access education, and ensure that they continue their studying at all levels of education by raising the awareness of the importance of education as a human right and as a basis for women's empowerment, and strengthen the implementation of the re-entry policy, which allows Roma girls, who left school, go back to school.</p>
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V. STATE TARGET PROGRAM "National Action Plan for the Implementation of the Convention on the Rights of People with Disabilities" for the period up to 2020, approved by the Resolution of the Cabinet of Ministers of Ukraine from 01.08.2012 № 706³⁵

<p>TASKS AND EVENTS</p> <p>Equality and non-discrimination. Women with disabilities</p> <p>However, there is no gender component.</p>	<p>P. 17</p> <p>a) To meet the specific needs of the various groups of internally displaced women, who are the subject of diverse forms of discrimination, including widows, women with disabilities, elderly women, women belonging to Roma or LBT, as well as provide long-term measures to meet the needs of internally displaced women and girls;</p> <p>P. 30</p> <p>f) Provide adequate conditions for compensation and rehabilitation for women with disabilities who are victims of violence;</p> <p>P. 37</p> <p>a) Strengthen efforts on creation an enabling environment for women to obtain economic independence, including raising the level of awareness of employers from public and private sectors about the prohibition of discrimination against women in the field of employment, including women with disabilities, and also to contribute in every possible way to the entry of women into the formal economy including through vocational education;</p> <p>f) Enhance efforts to provide women, affected by the conflict, including women with disabilities, widows and women who are heads of households, with sustainable economic opportunities, and effectively address all obstacles to ensure women's fair participation in the labour market;</p>
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33 <http://zakon2.rada.gov.ua/laws/show/230-2017-%D1%80>.

34 <http://zakon2.rada.gov.ua/laws/show/201/2013>.

35 <http://zakon2.rada.gov.ua/laws/show/706-2012-%D0%BF>.

VI. STRATEGY for Poverty alleviation, approved by the order of the Cabinet of Ministers of Ukraine from March 16, 2016, N° 161-p, Action Plan for 2018 on the implementation of the Strategy for Overcoming Poverty, approved by the Cabinet of Ministers of Ukraine from February 14, 2018 N° 99-p³⁶

Promotion of gender equality in labour remuneration in all spheres of economic activity by strengthening state and public control, gradual introduction of gender quotas in state enterprises:

- development of guidelines for the inclusion of provisions, ensuring equal rights and opportunities for women and men, including salaries, vacations, working conditions, opportunities to combine professional and family responsibilities, to the General Agreement on the regulation of labour relations and the socio-economic interests of workers and employers, branch (inter-branch) and territorial agreements, collective agreements;
- implementation of state supervision (control) of compliance with labour legislation, employment and compulsory state social insurance on the prohibition of gender-based discrimination;
- holding seminars, meetings, round tables, training for employers and trade unions on the introduction of international standards of equality in the remuneration of women and men taking into account European experience.

P. 25

a) Contribute to the development of the ability of all relevant government officials and politicians, as well as political parties, in particular, within the framework of the concept of temporary special measures, and to adopt and implement relevant activities, including determining the number of time-based goals and quotas, aimed at achieving actual equality of women and men in all areas where women are under-represented or disadvantaged, including public and political life, education, health care and employment;

b) Eliminate the underlying reasons of the poor implementation of existing temporary special measures and adopt legislation to encourage the use of temporary special measures, covering both the public and private sectors of the economy

P. 27

a) Introduce, without delay, a comprehensive strategy that includes active and consistent measures, targeting women and men from all walks of life in order to eliminate discriminatory stereotypes and patriarchal perceptions of the roles and responsibilities of women and men in the family and in society.

P. 28

b) Use innovative measures aimed at the media to deepen understanding of the real equality of women and men, as well as strengthen positive and non-stereotypical ideas about women in all areas, with particular emphasis on the educational system.

P. 37

a) Strengthen efforts on creation an enabling environment for women to obtain economic independence, including by raising the level of awareness of employers from public and private sectors of the economy about the prohibition of discrimination against women in the field of employment, including women with disabilities, and also to contribute in every possible way to the entry of women into the formal economy including through vocational education;

b) Effectively guarantee adherence to the principle of equal payment for work of equal value, take measures to reduce and eliminate the payment gap between men and women, and regularly review the level of salaries in sectors where women are concentrated.

VII. NATIONAL TARGETED SOCIAL PROGRAM on HIV / AIDS counteraction for the period of 2014-2018, approved by the Law of Ukraine from 20.10.2014 N° 1708-VII³⁷

It envisages:

- application of a gender-based approach in the planning and implementation of HIV / AIDS response measures;
- implementation of a gender-based approach to providing services to people, living with HIV and representatives of high-risk groups for HIV infection;
- conducting a study on the level of access to health care and social services provided to people living with HIV, taking into account a gender-oriented approach by state and non-governmental organizations, and, based on its results, developing a plan of measures to determine or increase level of their provision;
- ensuring training and retraining on HIV / AIDS (taking into account the gender-based approach) (employees of the Ministry of Education and Science, Youth and Sports of the Autonomous Republic of Crimea, structural subdivisions of youth and sport of regional, Kyiv and Sevastopol city state administrations, teachers of educational institutions, social workers, specialists in social work and social workers);
- the creation and ensuring the functioning of a gender-based approach, the need to prevent violence and discrimination of the resource and information center for the synthesis and dissemination of technology and experience of social work with children at risk;

Particular attention is paid to pregnant women (a series of measures to minimize and overcome risks is planned).

P. 39

c) Strengthen the implementation of HIV / AIDS strategies, in particular, preventive strategies and continue to provide all women with HIV / AIDS with free antiretroviral therapy, as well as strategies to combat alcoholism and drug addiction among women

P. 15

d) Ensure that women, who are victims of sexual violence, have access to comprehensive medical care, including emergency contraception and HIV / AIDS prevention, mental health support and psychological support provided by health professionals, who are properly prepared to detect and eliminate sexual violence consequences, as well as provide victims with access to forensic investigations, and therefore seek assistance from relevant agencies and institutions of the United Nations.

36 <http://zakon2.rada.gov.ua/laws/show/99-2018-%D1%80>.

37 <http://zakon2.rada.gov.ua/laws/show/1708-18>.

Analysis of State Programmes and Strategies Specifically Gender-Oriented on Availability of Provisions on Protection of Women's Rights during Conflict and in Post-Conflict Period

I. NATIONAL ACTION PLAN for implementation of the recommendations set forth in the final comments of the UN Committee on the Elimination of Discrimination against Women, approved by the Cabinet of Ministers of Ukraine from September 5, 2018 № 634-p ³⁸	
Ensuring systematic training on human rights issues, in particular women's rights, for all law enforcement officers and servicepersons , as well as introduction and observance of a strict code of behaviour to effectively ensure respect for human rights	making changes to the training courses on women's rights in higher education institutions of the Ministry of Internal Affairs and the security and defence sector, developing new courses and incorporating them into curricula
Rejection of an application for an amnesty for individuals, suspects, accused or convicted of war crimes, crimes against humanity or gross violations of human rights, including sexual violence related to the conflict .	making amendments to the Law of Ukraine «On the Application of Amnesty in Ukraine» and other legislative acts on the inadmissibility of amnesty for individuals, suspects, accused or convicted for committing war crimes, crimes against humanity or gross violations of human rights, including those related to sexual conflict violence
Providing women and civil society organisations with the opportunity to contribute to the peace process as active participants by creating effective channels of communication and coordination and joint initiatives that take into account the priorities of women.	developing a checklist on the identification of violations of women's rights during peaceful negotiations
Ensuring appropriate training for lawyers, investigators, prosecutors and police officers in order to increase their capacity to investigate, document and prosecute those responsible for sexual abuse in accordance with the International Protocol on Documentation and Investigation of Sexual Abuse in Conflict	<ol style="list-style-type: none"> 1. development of standards of gender competence for each level of higher education within the specialties «Law», «Law-enforcement activity», «International Law» and approval of them as an integral part of the standard of higher education in the aforementioned specialties. 2. elaboration of criteria of gender competence of employees of judicial, prosecutorial, and investigative bodies in terms of knowledge and skills for identification, investigation, documentation and prosecution of perpetrators of sexual violence 3. elaborating the requirement of gender competence for general criteria for recruitment and the annual evaluation of the results of the official activities of judicial, prosecutorial, investigative and police officers 4. the development of the recommended online course on investigating, documenting and prosecuting perpetrators of sexual violence in accordance with the International Protocol on the Documentation and Investigation of Sexual Abuse in Armed Conflict 5. conducting trainings (with testing and certification) on developing skills of investigating, documenting and prosecuting perpetrators of sexual violence for members of the judiciary, prosecutors, investigating authorities and police officers 6. production and distribution of methodological materials on investigation, documentation and prosecution of perpetrators of sexual violence for employees of judicial, prosecutorial, investigation and police officers
Ensuring the comprehensive consideration of issues related to the problem of sexual violence caused by conflict in any future justice process of the transitional period, covering the full range of judicial and non-judicial measures, including criminal prosecution, truth-seeking investigations, harm reimbursement programmes, institutional reforms or their combination, as well as conducting national consultations, in particular involving people who had suffered from human rights violations and abuse	ensuring the identification of the procedure for identification, documentation and investigation of cases of sexual violence caused by armed conflict and sending victims to the relevant institutions for receiving the necessary assistance
Ensuring the meeting exact needs of the various groups of internally displaced women and girls who are discriminated, including widows, women with disabilities, elderly women, women belonging to Roma national minorities or sexual minorities, and providing long-term measures to meet needs of internally displaced women and girls	making a gender analysis of the needs of various groups of internally displaced women and girls, including those subjected to multiple forms of discrimination (including widows, women and girls with disabilities, elderly women, women belonging to Roma national minorities or sexual minorities), and the development of proposals for regulating the identified needs of different groups of internally displaced women and girls through the issuance of subordinate legislation to ensure the rights of internally displaced people
Ensuring the effective implementation of the Law of Ukraine «On ensuring the rights and freedoms of internally displaced people» through the publication of normative acts that guarantee its practical application.	implementation of public control over compliance of the legislation on ensuring the rights and freedoms of internally displaced people

38 <https://www.kmu.gov.ua/ua/hpas/pro-go-planu-dij-z-vikonannya-rekomo-zhinok-do-vosmoyi-periodichnoyi-dopovidi-ukrayini-pro-vikonannya-konvencyi-pro-likvidaciyu-vsih-form-diskriminaciyi-shchodo-zhinok-na-period-do-2021-roku>.

<p>Providing internally displaced women and girls with access to health services, education, nutrition, housing, freedom of movement, registration, social benefits, justice and access to long-term solutions, as well as ensuring stable employment for them.</p>	<ol style="list-style-type: none"> 1. implementation of measures on gender integration in the activities of the central executive body, which ensures the formation and implementation of state policy on internally displaced people 2. provision of information and methodological support to host communities and internally displaced people on the integration of internally displaced women and girls
<p>Strengthening efforts on providing women affected by conflict, in particular women with disabilities, widows and women who are heads of households, with sustainable economic opportunities, and effective ways to overcome all obstacles to ensure fair participation of women in the labour market</p>	<p>foresight when creating a single register of recipients of social assistance and other social payments for women affected by the conflict, in particular women with disabilities, widows and women who are heads of households, by their place of residence (region)</p>
<p>II. STATE SOCIAL PROGRAMME on ensuring equal rights and opportunities for women and men for the period up to 2021, the Resolution of the Cabinet of Ministers of Ukraine from April 11, 2018 № 273</p>	
<p>Improving the situation of groups that suffer from discrimination on more than one feature, including gender</p>	<p>carrying out activities on informing internally displaced people about access to medical, educational, social services, employment and justice, etc.</p>
<p>III. STATE SOCIAL PROGRAMME on counteracting human trafficking for the period up to 2020, Resolution of the Cabinet of Ministers of Ukraine from February 24, 2016 № 111</p>	
<p>carrying out preventive work aimed at preventing human trafficking, especially among internally displaced people</p>	
<p>carrying out large-scale information campaigns among the population, including internally displaced people, on preventing the risk of human trafficking and ensuring access to assistance</p>	
<p>developing and approving a list of indicators to help identify trafficked people, including people without citizenship and internally displaced people</p>	
<p>identification of people who had been trafficked among internally displaced people</p>	

