

Policy paper

Reintegration of the population affected by the conflict in Donbas and restoring justice and peace: current state and priorities



Imprint



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Introduction

In the sixth year of the armed conflict in the east of Ukraine, millions of people continue to experience everyday difficulties which impinge upon on their dignity and right to a life in freedom, peace and justice. In the face of the ongoing armed conflict, human rights violations and the difficult situation of the civilian population in the conflict region demand attention – from the Ukrainian government, the international community and civil society.

The first and most important task for all participants in the political decision-making and implementing process is the cessation of armed operations, the regulation of the humanitarian crisis – especially in the inhabited areas close to the demarcation line – and ensuring that civilians have access to basic necessities and the human right to participate in democratic processes.

It is evident that

- The armed conflict in the eastern Ukraine is related to the issues of the security, peace and democracy on all European continent and it is not an internal problem of Ukraine
- Any decision made, action, or inaction will influence life of the generations ahead.
- Everyone working on development of the reintegration strategy for the conflict affected region, should take complex and considerate approach to decision making
- Better results can be achieved through coordinated actions of all the actors engaged in the conflict resolution
- Restoration of peace and justice doesn't solely depend on military and courts. Stable, peaceful and democratic future for people affected by the conflict depends on the work of the bodies of legislative and executive power, on the readiness of the politicians, civic activists, scientific and civic experts to contribute to the development of the prerequisites for just peace in the society.

How soon Ukraine will be able to overcome the consequences of the conflict and become a flourishing European state depends on both political will and the vision of the state authorities of Ukraine, as well as the support of European states' international institutions and the active work of civil society. The competence of the Ukrainian executive authorities at all levels, the sense of responsibility for the results of their work and the

competence of different actors is of great importance for the development and implementation of the population reintegration strategy in the conflict region. Well-considered outreach, involving those affected by the conflict and the whole of civil society in the process of developing a strategy, is a prerequisite for public support for the decisions and actions of the authorities.

The challenges facing Ukraine's society in the near future in its transition to peace and development of social trust are as diverse as the needs of the millions of different people affected by the conflict: Ukrainian citizens living in the zone of ongoing armed activities; people who have lost their health, loved ones, property, work; people needing state and social support; internally displaced persons needing to rebuild their lives in a new place, foreigners and stateless persons living in areas which are not controlled by the Ukrainian government; children, born after 2014, pupils and students, parents and the elderly.

Who is going to have to deal with these tasks? It is public authorities at all levels, local authorities, politicians and diplomats, parliamentarians and officials in Ukraine and abroad, international political and financial institutions and humanitarian organisations, judicial bodies, the education system, the media, civil society and finally, those who have suffered themselves.

We, the participants of the civil society platform CivilM+, see it as our task to facilitate and support the process of the peaceful settlement and the overcoming of the consequences of the conflict in Donbas. Drawing upon the many years of experience of the experts and partners of the platform, we seek to broaden and strengthen cooperation among the various actors, to bring together and systematize their knowledge and understanding of how the process of the reintegration of the conflict-affected population and the return of Ukrainian society to peaceful life can and should take place. Our aim is to develop a comprehensive understanding and common approach to implementing various aspects of this process.

Definition of reintegration and current state policy in this sphere

The UNHCR and the IOM mostly speak of the reintegration process in terms of the return of the displaced population or refugees. In the case of Ukraine, whilst it is not yet a question about the return of IDPs to their previous place of residence, reintegration can be defined as a process that includes the progressive creation of conditions which allow the population affected by the conflict, to enjoy their social, economic, civil and political rights. This understanding of reintegration involves eliminating the differences in the situation and rights of the communities affected by the conflict and the rest of the population. Reintegration is an important component of the reconciliation and peacebuilding process and is thus linked to the reduction of political and social violence, as well as the establishment of the rule of law.

Since the adoption of the Minsk agreements, the government of Ukraine has taken a number of steps to protect the rights of citizens affected by the conflict, who have moved from the non-government-controlled areas or the combat zone. With the law "On ensuring rights and freedoms of internally displaced persons", the state guarantees the "creation of conditions for the voluntary return of IDPs to their abandoned place of residence or integration into a new place of residence in Ukraine".¹ On 24 February 2018, the Law of Ukraine "On the peculiarities of the State policy to ensure the State sovereignty of Ukraine over the temporarily occupied territories in Donetsk and Luhansk regions"² came into force, the so-called "law on reintegration".

It should be noted, however, that until recently, the rhetoric of the security forces, officials and local government representatives has viewed the reintegration of the conflict-affected areas, separate rayons of Luhansk and Donetsk oblasts (ORDLO),³ and their inhabitants exclusively, or almost exclusively, as a set of measures that must be taken in the long-term and only after the final and full return of the uncontrolled territories (through the implementation of peace treaties or as a result of a military operation). Meanwhile, inconsistent policies towards IDPs and inhabitants of these territories and the severance of economic, infrastructural and transport links with these territories over the years have significantly complicated the task of reintegrating the population in the ORDLO in the future.

Amongst the factors that over the years have increasingly distanced inhabitants of the ORDLO from their fellow citizens in government-controlled territory, the following factors can be identified, which have created conditions for the increasing social, economic and informational isolation of the non-controlled territories and their inhabitants:

- the economic blockade;
- the absence of a way of paying citizens living in the ORDLO their pensions;
- the absence of an administrative procedure for the recognition of births and deaths in ORDLO;
- the lack of a mechanism to compensate material (destroyed housing and lost property) and moral damage (due to the death and injury of citizens and their relatives);
- the limitation of the voting rights of IDPs and inhabitants of ORDLO;
- the lack of a transparent and consistent approach to issues regarding an amnesty;
- disproportionate restrictions on the freedom of movement.

The President and Parliament of Ukraine elected in 2019 have given a series of positive signals and have renewed focus on the issue of reintegration. As such, the deputy director of the Office of the President (OP), Ruslan Ryaboshapka, announced that the OP with the support of the Law Reform Commission (under which a task force on the reintegration of ORDLO and their population has been created) plans to present a packet of initiatives of the President on reintegrating Donbas by 2020⁴ and progress has been made in the negotiating process.^{5,6}

However, in a highly tense domestic and international political environment,⁷ the government has permitted a series of ambivalent measures and risky political compromises.^{8,9,10,11,12,13,14}

Although the war is still ongoing, it is possible and, indeed necessary, to talk about reintegration now. Ukraine has obligations to protect the rights of its citizens who are in the uncontrolled territories and the government's steps, even though they are limited by the realities of the conflict, can show the population that they have not been forgotten and they are still considered by the government to be a part of Ukraine. The opportunity to make the most of government services as easily as possible, to quickly cross the contact line and to carry out business with other Ukrainians will bring the population

of the ORDLO closer, restore their links with the rest of Ukraine and create channels of communication. All of these are important steps that will facilitate living together in the future when the ORDLO returns to being under the control of the Ukrainian government.

Recommendations for an effective reintegration policy

The following are amongst the priority measures for the effective reintegration of the ORDLO and their population, as well as IDPs:

I. Resolution of humanitarian crisis and provision of the effective access of the population to exercising of rights/basic services

1. Resumption and increase of the financing of existing state housing programs, which are accessible for IDPs (the programs "Dostupne zhitlo",¹⁵ "Vlasnii dim",¹⁶ preferential lending programs; development and introduction of special housing programs for IDPs (for instance, the right for IDPs to have priority to buy housing that they are temporarily using, benefits and incentives for landlords who rent their accommodation to IDPs).
2. Changing the approach to state support of IDPs: targeted support for IDPs¹⁷ does not correspond to the actual costs of rent and utilities. A far more effective way of supporting IDPs could be to provide social or temporary housing in combination with employment/entrepreneurship development programs.
3. Effective access to civil registration (introduction of an administrative procedure of recognising births and deaths of individuals in the ORDLO.¹⁸ The judicial procedure for the government to recognise births and deaths in the ORDLO is ineffective and inaccessible for many citizens. The need to pay the court fee, the bureaucratic complexity (civil registration office – court – civil registration office), restrictions on the territorial jurisdiction of cases regarding the recognition of death, the limited number of people who can apply to the courts to register cases and receive the corresponding evidence all significantly complicate the procedure of receiving inheritance, birth payments, guardianship and so on for the

residents of ORDLO and their relatives, and in the long-term, it puts children who have been born in ORDLO after 2014 at risk of statelessness.

4. Access to the passport of a citizen of Ukraine: improvement of the procedure and unification of the practices of the State Migration Service (GMS) regarding the process of establishing identity and citizenship, as well as the issuance of temporarily identity cards. During the process of registration/re-registration/extension of passports for a citizen of Ukraine, many face difficulties related to the need to confirm their identity and citizenship. At the same time, the practice of territorial bodies of the GMS can significantly vary from district to district - it is practically impossible to prepare a universal and comprehensive list of documents, which can serve as evidence, and to ensure the participation (and personal presence) of 3 to 5 people to confirm the identity of the applicant etc. The procedure of issuing a passport can take up to a few months, during which time the person without documents may have a difficult time in navigating the territory of the Joint Forces Operation (JFO) (through internal roadblocks) and crossing the line of contact (LoC) (across entry/exit points).
 5. Access to administrative services. The conflict and displacement of the population has significantly increased the burden on state institutions along the LoC. However, in the majority of cases, the resources of the territorial bodies and subdivisions of the Department for the Social Protection of the Population (SZN), the Pension Fund (PF), GMS and other bodies and services that are in high demand have not been increased according to this increased demand. The necessary changes (increasing staff, expanding the number of premises and additional logistical support, electronic queues, the establishment of administrative service centres etc.) are being implemented very slowly, resulting in huge queues, delays in document production and decision-making, increasing emotional tension and numerous conflicts.
- ### II. Eliminating all forms of discrimination and ensuring equal access to services and rights
1. Eliminating the discriminatory procedure of (re-)registering pensions and social benefits

for citizens of ORDLO, as well as Oschadbank's monopolies to service them, the so-called alternative pension payment procedure. The most vulnerable groups of the population remain the least protected in terms of both legislation and law enforcement. Pensioners and recipients of social benefits, who often have no other means of subsistence, still lack effective access to pensions and material state support. The discriminatory procedure of re-registering a pension, which requires the (often fictional) registration as an IDP, the system of multi-level verification, the monopoly of Oschadbank over services for pensioners registered in the ORDLO, should be urgently reviewed by the government.

2. Equal access to voting rights, changing the approach towards the definition of a voting address (draft law 6240¹⁹/transformation of the system of registering a place of residence). Since the beginning of the conflict, tens of thousands of Ukrainian citizens have already been unable to take part in the elections of people's deputies in single mandate districts. The mechanism for temporarily changing one's polling station, requires inhabitants of ORDLO to undertake trips to the controlled territory at least twice (to apply for a change of venue and on the day of voting itself), and secondly, it allows voting in the parliamentary elections only for candidates on the lists of political parties. IDPs, living in host communities for several years, do not have the right to vote in local elections. The problem of access to elections once again highlights the need for the de facto abolition of the institution of household registration and the introduction of a residence registration procedure that would meet the existing challenges.

III. Development of a concept of transitional justice

1. Ensure consistent implementation of the judicial reform for the increase of the efficiency and transparency of the courts and improved trust of the society to the judicial system
2. A mechanism for the compensation of destroyed housing and damaged property. Judicial practice shows that current legislation provides for such a mechanism, however it is impossible to use it in practice, since even existing court decisions in its favour have not been implemented.²⁰

3. Examination of approaches for granting a partial amnesty to certain categories of combatants and civilians on both sides, including those who took part in political rallies and anti-government demonstrations, who cooperate with the de facto authorities or have been (or continue to) act as an official or local government official; development of a clear and understandable policy towards these people, as well as a clear policy of Ukraine regarding those who have committed war crimes and gross violations of international humanitarian law.
4. Ensuring social protection for victims of the war should be regulated by national legislation, because international humanitarian law allows for the protection of civilians in the zone of conflict or occupation, but does not contain norms for the regulating of social protection for civilian victims of the war in the phase of their transition to a peaceful life. In Ukraine, there is only one rule regulating the protection of citizens affected as a result of the armed conflict. On 24.02.2018, the Law of Ukraine "On the status of war veterans and guarantees of their social protection" was supplemented by a rule governing the granting of the status "individual with a disability as a result of war" (which is analogous to a "disabled veteran") to individuals who were disabled as a result of injuries or other health problems received from explosive devices, munitions and military weapons in the ATO territory.
5. The reconciliation process, which is both essential and unavoidable, involves the establishment of a broad-based public dialogue, the creation of memorial commissions, the discussion of history and the conflict – this is the only way that it is possible to guarantee that this tragic experience does not happen again.

IV. Ensuring access to citizens' right to the freedom of movement and the restoration of social ties

1. Coordinate the efforts of international partners to ensure the access of humanitarian organisations to non-government-controlled territories
2. We welcome the progress that has been achieved by the parties in the restoration of the bridge across the Seversky Donets river in Stanytsia Luhanska,²¹ as well as measures undertaken by the Government of Ukraine²² for the rapid

restoration of transport links between ORDLO and the territories of the Luhansk oblast under government control and call for the parties in the future to promote the increase of entry and exit points in the Luhansk oblast.

3. Elimination of the permit (propusk) regulations, or at least the establishment of a more accessible registration procedure. In July 2019, the Cabinet of Ministers of Ukraine finally adopted the procedure for movement across the LoC. For four years up until the adoption of this procedure, crossing the LoC via entry and exit points, registering for an admittance permit and the powers of the law enforcement officers were regulated by an internal document of the SBU - that is, they were not set out in a regulatory framework. However, it is worth noting that the new procedure retains, almost unchanged, the basic restriction of the right to freedom of movement – the permit regulations. Human rights activists have repeatedly drawn attention to the fact that the procedure for obtaining an electronic permit to cross the LoC is inaccessible, unnecessarily complicated and time-consuming.
4. The new procedure for movements across the LoC also integrated the procedure for the movement of goods and consolidated a new approach to the the list of goods which are allowed to be carried – now it will be possible to carry to/from the ORDLO any goods/personal items, apart from those that will be provided for on the list of prohibited goods. Further liberalization of the procedure for the movement of goods and property of legal entities, as well as the possibility of the movement of goods by truck, may be the next step in restoring economic ties with the uncontrolled territories.
5. The arrangement of entry and exit points along the LoC in accordance with the needs of citizens crossing them,²³ opening additional border crossing points not only makes it more convenient, but also prioritises the safety of people crossing the LoC.²⁴

V. Access to the education for all citizens

1. Ensuring the security of educational institutions along the LoC. The situation surrounding access to education, primarily for children living in small towns in the so-called “grey zone” and inhabited areas close to the LoC, remains extremely

complicated.²⁵ Destroyed infrastructure and the tense security situation are often the reason for children not going to school or pre-school for months at a time (or in a number of cases, they attend schools in ORDLO, which are easier for them to reach, everyday crossing the LoC in places not intended for this purpose).

2. Support for students from ORDLO, receiving higher or specialist education in territories controlled by the government. It is worth noting the efforts of the state in encouraging school leavers in the ORDLO to receive higher education in the territories controlled by the government. Pupils in ORDLO who wish to continue their education in Ukrainian universities and professional educational institutions have access to distance preparation and taking of the VNO (Ukrainian university entrance exam) and have privileges when enrolling into an educational institution. Such policies should be consistent and comprehensive and should include social support and provision of housing for students.
3. Support of the travel and stays of the school children from ORDLO and territories close to the contact line in the schools of the other regions of Ukraine to create human ties and dismantle stereotypes about other regions of Ukraine

VI. Implementation of the consistent policy towards the local self-governance in the territories under the control of the Government of Ukraine

1. Consistent policy towards local governance in the Donetsk and Luhansk oblasts. At the same time as the Ukrainian government is developing a procedure for carrying out local elections in the ORDLO and a draft law “on the special status of Donbas”, since the beginning of the conflict, many communities along the LoC have been under civil-military administrations (CMAs) for several years, whose chairpersons are appointed directly by the President of Ukraine, that is, the local authority in these communities is not elected. The creation of CMAs was dictated by the difficult security situation and the de facto failure of local self-government bodies to perform their functions during the active phase of confrontations. Today, many communities are once again ready to form local self-governance bodies, however they are

deprived of the opportunity. Often, a wide range of powers and the lack of effective monitoring over the activities of the CMA increases the risk of corruption.

VII. Minimisation of risks for the environment in the conflict affected region

1. Monitoring over both the ecological situation in the region and the enterprises operating in the immediate vicinity of the combat zone is a crucial first step to ensuring the environmental security of the country, which is undoubtedly a component of national security.^{26, 27} There is a need for quality monitoring, as well as legislative mechanisms to ensure effective checks on the environmental situation.
2. Along with effective monitoring, measures should be developed, taking into account the ongoing armed conflict and the most likely risks, as well as the specific conditions of these territories, to prevent and eliminate the consequences of emergency situations, including those of an environmental and man-made nature, which will improve or at least avoid a worsening of the situation of the population of the territories affected by the conflict.

VIII. Information and language policy

1. Ukrainians living on different sides of the line of demarcation have already been receiving very different information for more than 5 years. Over the years, the difference in perception of social and political processes will only widen. For successful reintegration, Ukraine needs to develop a flexible information strategy, aimed at the gradual involvement of people who have spent a considerable amount of time without access to Ukrainian media.
2. The language question still remains one of the most pressing and most influential issues in the development of the conflict. The need to develop and maintain the Ukrainian language as the state language is clear, but in the long run, the government needs to develop a flexible approach allowing ethnic minorities to use their own languages and to not feel excluded from the common space of the Ukrainian political nation.

Endnotes

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This publication is developed in the framework of the activity of CivilM+ platform and is based on the discussions during the 2nd International Forum «Reintegration in Donbas – improving the humanitarian situation and strengthening people to people contacts in the conflict region» Kyiv, 13-14 November, 2019.

CivilM+ is an independent international civil society platform, which mission is to active integration of civil initiatives to restore the Donetsk and Luhansk oblasts as peaceful, integrated and developed regions as part of a democratic Ukraine and a united European space, with the active participation of the region's population and those who have left the region due to the conflict.

The CivilM+ platform offers its participants the opportunity to collaborate as part of joint initiatives and projects, to develop and express joint positions, provide mutual support and solidarity, systematise knowledge, raise levels of qualification and improve coordination.

Platform CivilM + was launched in December 2017 thanks to the joint effort of the civil society representatives from Ukraine, Russia, Germany and France.

More about the platform and it's members on the web-site civilmplus.org

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