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Protection of human rights of internally displaced persons in Ukraine:

Results of interview and monitoring of judicial decisions

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and monitoring of judicial
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Within the project

«The rights of refugees and internally displaced persons: best European practices and ways of their implementation»

Methodology was developed by the group of selected experts jointly created by the Council of Europe Project «Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine», the UNDP Project «Strengthening Capacities of the Ukrainian Parliament Commissioner for Human Rights Office»

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Introduction

Since the beginning of a conflict in the East of Ukraine a lot of Ukrainian and international governmental and non-governmental institutions has taken many efforts to solve humanitarian problems and provide other types of aid to people, who lived at the area of warfare, and internally displaced persons (IDPs), who had been compelled to abandon their homes and to move to the quiet regions of Ukraine. Most of the IDPs were convinced that military operations in the Donetsk and Luhansk regions would soon be over, and they would have an opportunity to get back to their homes and keep living their familiar life. However, the conflict has turned out to be a continuous military confrontation, and such expectations have never come true. At present day the governmental institutions and municipalities have new goals which differ substantially from those that were of primary importance at early days of the conflict and even two years ago.

This doesn't mean that humanitarian problems have already been solved, notably the problems of upholding the social standards for IDPs. Nevertheless, they are not as threatening as at the beginning of the warfare in the East. The most up-to-date scope of issues relates to the integration of IDPs into the communities where they live now and other issues of socio-economic, political and cultural integration of those people into the everyday peaceful routine.

Within the frame of the Project "Rights of refugees and internally displaced persons: European best practice and methods of implementation" the experts didn't spare efforts to find out systematic and the most actual problems of IDPs and determine solutions for them to ensure protection for IDPs as a highly vulnerable group of population. In execution of the Project goals, we relied on the positive European practice of upholding the rights of refugees and IDPs, including the Slovakian experience in the reception of refugees from Iraq and Middle East.

It is worth noting that the Project included a review of the problems of IDPs who had been compelled to leave the Crimea for other regions of Ukraine because of annexation of the peninsula by the Russian Federation in spring 2014, and the issues of upholding their rights have also been surveyed. Those people have come across similar obstacles in their way to peaceful integration into the communities they live within.

Accomplishing a research of such a wide area of social life of the Ukrainian society required introducing the existing situation from different angles, that is, from the point of view of the representatives of various institutions who assist IDPs as well as from the point of view of IDPs themselves. Consequently, investigation of the vital problems of IDPs included questioning of the officials of state administrations and local governments who are empowered to solve the IDPs' problems, representatives of the NGOs which assist the displaced persons in the Donetsk and Luhansk regions and the rest of Ukraine. The IDPs were also interviewed since they could see deficiencies and diversities of laws in the scope of legislative regulation of enjoyment of their rights better than anyone. The revealed problems have been overthought under the standards of implementation of human rights of refugees and IDPs, mostly based on case-law of the European Court of Human rights in the relevant cases, which has made a positive impact on the reasonableness and sufficiency of the ultimate conclusions.

Such an exploratory approach has made it possible to find out the most unified and settled decisions to solve the issues of IDPs in enjoyment of their rights. We assume that in this report we succeeded to keep proportion between personal interests of IDPs and general interests of state, take into account opinions of the representatives of society who also strive for the soonest solution of IDPs' problems.

As a result of a research, it should be mentioned that IDPs presently need solution of the problems in the scopes of socio-economic assistance, public services, political rights, rights to education, legal aid and health care, access to justice, cultural integration into the new communities, psychological aid, etc. All these issues are the matter of our research. Without upholding the rights of IDPs in the above spheres one cannot claim that human rights are being properly protected in Ukraine and the principle of supremacy of law is being ensured in accordance with international standards, because these people are

more vulnerable than the other citizens. Accordingly, the state is liable to ensure additional guarantees for displaced persons. Governmental institutions are supposed to react quickly and effectively once they know about the issues that need solution and take global steps to assist those people so that they do not feel unprotected as compared to the others who have not suffered from the armed conflict.

It is now crucial to understand whether the government has a clear and effective strategy to uphold the human rights of IDPs; whether the governmental and municipal institutions are flexible enough to quickly proceed in right directions while the situation with enjoyment of the rights of IDPs is always subject to dynamic changes. And above all, there has been a question of general evaluation of the government's activity in upholding the rights of IDPs in Ukraine and assistance to the NGOs which take care of the IDPs' issues.

It is now well known that there are two major classes of problems which keep the IDPs back from feeling like adequate members of society and having decent living standards; these problems relate to socio-economic, cultural and psychological spheres.

The matter of socio-economic problems is a low amount of social security payments issued by the government to IDPs who lost their jobs because of displacement and experience employment problems at the new places of residence. The amount of such payments is never enough to meet the minimal standards of living (alimentation, housing, education, health care, etc.). Besides that, there are plenty more unsolved vital issues we have surveyed, which are likely to be a challenge for governmental institutions since the authorities are empowered to secure proper standards for social assistance by removing all possible obstacles.

However, in the research we did take into consideration that the state had limited resources to spend on the solution of the IDPs' problems based on poor economic background. For that reason, the expert group never intended to push on with the question of wide-range governmental investments to increase living standards for IDPs. At the same time, we are absolutely convinced that most of the problems in this sphere could be solved with organizational and legislative measures or redistribution of available resources between executive bodies, local governments and NGOs for more effective application of the related funds. In accomplishing such measures both the government

and parliament should take into account not only economical reasons to save budgetary resources but bear in mind the importance of observing international standards for human rights upholding along with the standards provided by the Convention for the Protection of Human Rights and Fundamental Freedoms and case-law of the European Court of Human Rights.

Speaking of the cultural problems of IDPs we have to conclude that they are mostly caused by negative attitude of local residents to the IDPs. It becomes evident in everyday routine, for example, when the locals are unwilling to offer their accommodations to rent for IDPs or when they ignite conflicts because of the privileged status of IDPs, compared with the local residents who are not entitled to receive social security payments from the state. To solve all the above issues the state must not only mobilize financial resources but become more exposed to public and establish further dialog with IDPs and local residents to set up peace in their relations.

Besides that, special attention should be focused on the questions of psychological adaptation of IDPs. Authorized institutions are supposed to concentrate on training the experts who could conduct psychological rehabilitation of IDPs because, as we discovered, the authorities almost always ignore such issues.

Hopefully our research and conclusions will be useful for the officials of the executive bodies and local governments in their activities, which is very likely to raise standards of upholding the rights of IDPs and remove obstacles preventing the IDPs to get fully integrated into the Ukrainian society under equal conditions. Moreover, the report may become useful for the legislative bodies in further planning of the state policy of protection of the rights of IDPs in consideration of challenges and difficulties in this complicated, though imperative, part of contemporary life in Ukraine.

Interviews on the state of implementation of the human rights of internally displaced persons. Goals, tools and subject of research

From November 2017 to February 2018 the experts of National Academy of Legal Sciences of Ukraine and non-governmental organization SME SPOLU, with the financial support of Slovak agency for international development cooperation (SAMRS) within the frame of the Project “Rights of refugees and internally displaced persons: European best practice and methods of implementation” have questioned the internally displaced persons (IDPs), representatives of local bodies and governmental institutions, NGOs, which provide assistance to IDPs, about the problems of protection of rights of those people in Ukraine. The main purpose of the survey was to find out what obstacles the IDPs mostly encountered in everyday practice exercising their rights, to determine the recurrent violations of IDPs’ rights in various scopes of activity and identify factors that caused those violations. Besides that, the Project goal was to discover the problems of everyday activity of the executive bodies, local governments and NGOs which provide assistance to IDPs and work out step-by-step guidance to the related institutions to improve their assistance to IDPs and provide the most effective measures for protection of their rights.

Thus, based on the Project’s goals the survey was a part of a research of the problems of enjoyment of social rights by IDPs, their access to adequate level of health care, education and election process, opportunities to get involved in local governing. Moreover, the Project was supposed to find out possible employment problems of IDPs and evaluate their access to public services provided by the local bodies, including issuing legal records of vital events. The specific point of the survey was monitoring of the access of IDPs to various sources of information, which was necessary to effectively exercise their rights. The survey would not have been complete without having investigated the issues of access to justice, opportunities to get quality legal aid and other matters.

Thus, the survey and analysis of information consisted of the following steps:

- interviews of IDPs about the problems they encounter in exercising their rights;
- questioning of the officials of governmental institutions who are assigned who work with IDPs' issues;
- questioning of the officials of local governments who are assigned who work with IDPs' issues;
- questioning of the representatives of NGOs, which provide assistance to IDPs for the enjoyment of their rights.

The specific task of the experts was to summarize information and work out suggestions for executive bodies, local governments and NGOs in order to achieve the goal of the Project, namely to overcome obstacles that arise in everyday life of those people and relate to their human rights.

We used sociological tools, primarily the method of qualitative analysis, to build up a report. The report contains generalized information that was retrieved from the online questioning of IDPs, representatives of the executive bodies, local governments and NGOs, which provide assistance to IDPs, as well as the analysis of legislative regulations on the status of internally displaced persons in Ukraine. The survey was mainly aimed at revealing problems and trends, observation of impact of legislative changes on the human rights of IDPs.

The presented data is anonymous, the experts did not mean to estimate the activity of specific officials or public representatives because the main objective of the Project was to discover recurrent problems and find ways to solve them. Besides, the Report refers to the interviews with representatives of governmental institutions and NGOs which provide assistance to IDPs in the Donetsk, Luhansk and Kharkiv regions.

The research was conducted only at the Kharkiv, Donetsk and Luhansk regions due to time limits and abundance of IDPs staying there, which explains why these regions were selected for the research.

To achieve the best results the experts designated the most problematic areas of legislative regulation of the rights of IDPs and determined the criteria to detect violations related to the researched area.

Accordingly, the following exploratory tools were used:

- Questionnaires for internally displaced persons on the obstacles they encounter when exercising their rights;

- Questionnaires for representatives of the executive bodies who are assigned who work with IDPs' issues;
- Questionnaires for employees of the local governments who are assigned who work with IDPs' issues;
- Questionnaires for representatives of NGOs which provide assistance to IDPs for the enjoyment of their rights.

This methodology was worked out and tested by experts and volunteers of the Project. It was also discussed with lawyers, scholars and representatives of NGOs during the preparations for the Training "Protection of the right of internally displaced persons: judicial monitoring and other means of survey", which was arranged for the high school volunteers in December, 2017.

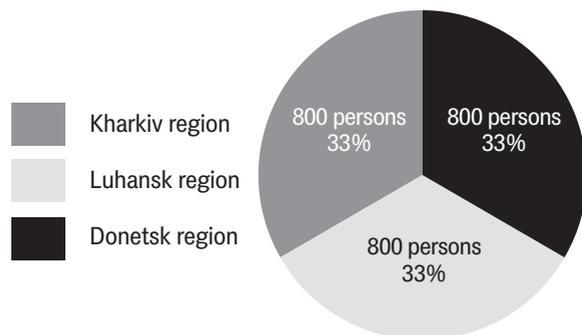
In respect to the results of discussion, the research was split into several directions:

1. Research of the problems that IDPs encounter in applying to the governmental institutions and local governments which coordinate activities on IDPs' issues;
2. Research of the problems that IDPs encounter in overpassing the administrative border with the Autonomous Republic of Crimea and the contact line in the Donetsk and Lugansk regions;
3. Research of the problems that IDPs encounter upon enjoyment of their rights (free temporary housing, social assistance, pensions, employment, peaceful assembly, access to quality health care, education, elections etc.);
4. Research of the problems that IDPs encounter upon enjoyment of their rights to protect personal data, access to information on the right of IDPs, etc.);
5. Research of the problems of IDPs' access to justice and their right to quality legal aid.

The IDP questionnaires included necessary questions to reveal all possible issues in the scopes mentioned above. It is noteworthy that the survey was carried out from the different positions, since not only the point of view of IDPs was studied but also the point of view of authorities and NGOs.

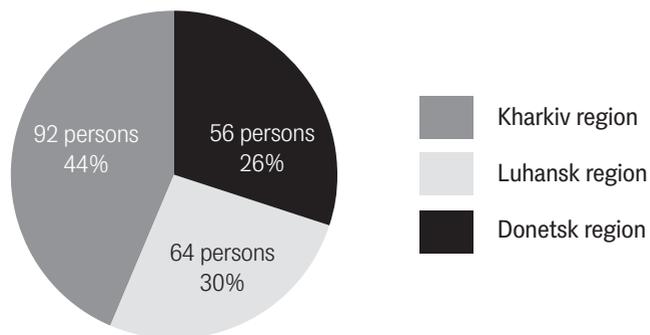
The total number of the questioned respondents was 2612, 2400 of them were questioned on-line.

The number of the internally displaced persons questioned on-line.



Moreover, the total number of 212 of internally displaced persons of the Donetsk, Luhansk and Kharkiv regions were personally interviewed by experts of the Project "Rights of refugees and internally displaced persons: European best practice and methods of implementation".

The total number of internally displaced persons interviewed by experts of the Project



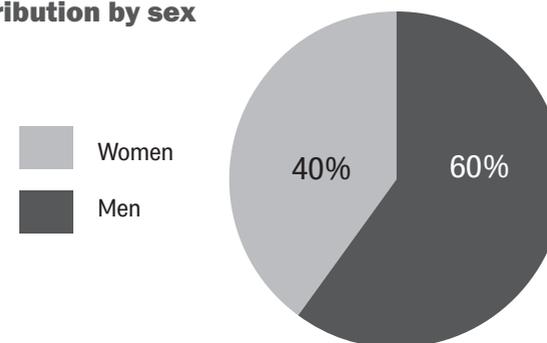
The experts also interviewed the officials of the executive bodies, local governments and representatives of NGOs in the cities of Kramatorsk, Sloviansk and Severodonetsk.

The summary on the survey is presented below.

Summary of the survey on internally displaced persons

Interviewed respondents. During the survey it was discovered that male respondents prevailed over female by a little margin. The experts of the Project did not mean to investigate the gender aspects of violations of the rights of IDPs', consequently, the questions to the respondents related to all IDPs regardless of sex.

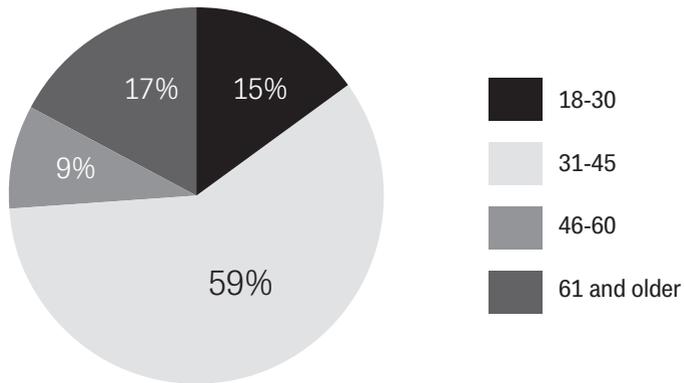
IDPs' distribution by sex



As for the age of the questioned respondents the experts emphasized on the differences, which characterize the approach of human rights observation for different age groups of IDPs. It is worth noting that vulnerability of such people directly depends on their age. Besides, some human rights (as a right to pension) will arise, alter and cease once an individual reaches definite age.

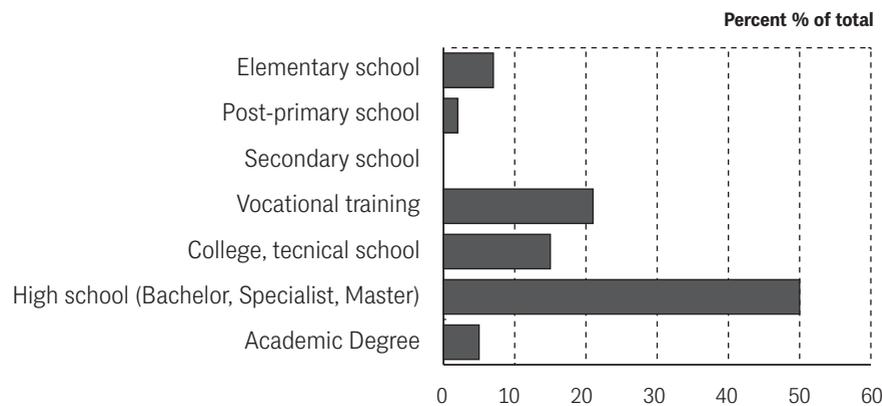
Experts did not have the purpose to take a survey on the rights of juveniles since there should be a separate specific research on that matter. This survey only represents internally displaced persons of different age groups from the age of 18 that is the age of active civil capacity.

Age groups of the internally displaced persons

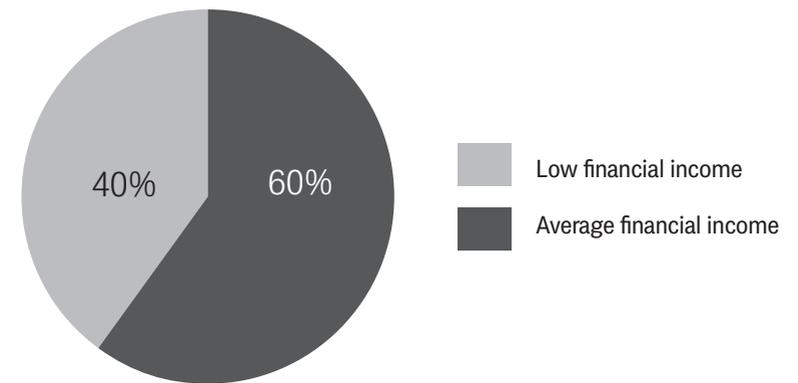


Other information on the respondents is related to their educational level and financial status as the experts were trying to get the picture of the pattern which links income and education, on the one hand, and human rights knowledge of IDPs and ability to effectively protect them, on the other hand. It should be noted that most of the interviewed IDPs have higher education and average financial income.

Educational level of internal displaced



Financial income of the internally displaced persons



Questions to the internally displaced persons. During the anonymous survey of the internally displaced persons the following questions were asked besides the questions of their age, sex, education, etc.:

1. Are you registered as an internally displaced person?
2. Have you encountered any problems at the local Social Security Office?
3. Have you applied to the local office of the State Migration Service for the renewal or preparation of documents?
4. Have you encountered problems at the local office of the State Migration Service?
5. Have you ever overpassed the contact line in the Donetsk and Luhansk regions using passes (permits) after the onset of an armed conflict?
6. Have you ever applied to the local state administrations or municipalities for free temporary housing?
7. Have you ever encountered any of the problems upon applying to the local state administrations or municipalities for free temporary housing?
8. Have you encountered any problems upon applying to the healthcare institutions?
9. Have you ever applied to the local Social Security Office for social assistance?

10. Have you ever applied for pension or renewal of your pension?
11. Have you encountered any employment problems?
12. Have you (or your children) ever encountered any of the following problems when exercising your right to education?
13. Have you ever applied to the civil registry office for a legal record of marriage/divorce, birth, death upon obtaining IDP status?
14. Have any governmental institutions ever disclosed your personal data or personal data of your family (names, contacts, passport details, identification numbers, medical reports, etc.) without your consent or permission?
15. Please indicate the source where you are getting information on the IDPs' rights?

More detail on the question list is in *Appendix 1*.

Each question allowed from 3 to 12 options to answer; the respondent could also submit information beyond any of the suggested answers, since the last option of possible answer was "Other".

According to the results of survey, the expert group came to the following conclusions.

The problems that IDPs encounter in applying to the governmental institutions and local governments, which coordinate activities on IDPs' issues. After having summarized the responses on this matter it was discovered that most of the violations committed by governmental institutions and local governments are procedural and did not involve legislative issues.

Thus, most of the difficulties the IDPs encountered in applying to public authorities had to do with inconvenience of the office premises, inadequate facilities for people with special needs (no ramps, elevators, etc.). Other complaints related to working hours of the authorities including inconvenient reception schedule, constantly long queues and preliminary booking requirements, which created significant problems instead of easy of effective access of IDPs to public services in those institutions.

There is a distinct obstacle in this area that concerns claims for undue preferences from IDPs in exchange for helping to resolve complex issues that IDPs encounter because of demands for additional documents within exercising of

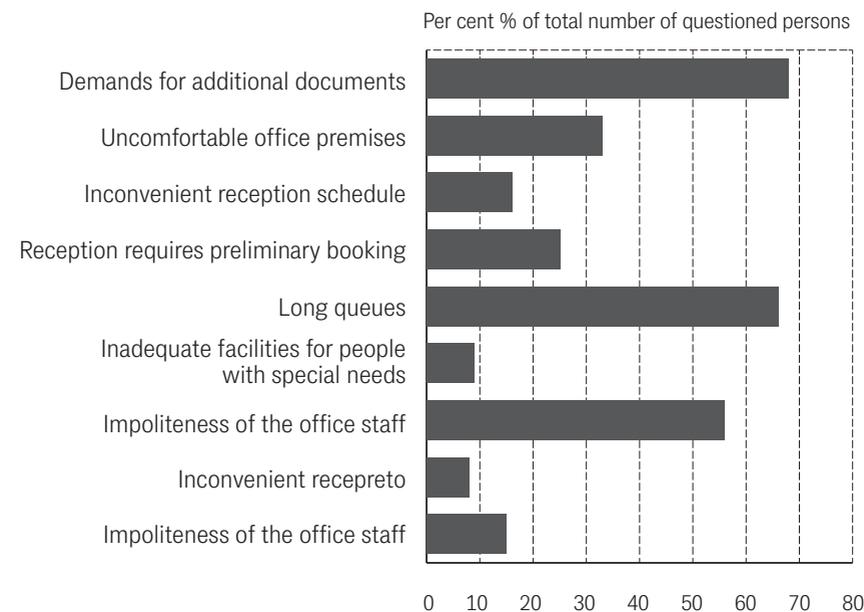
the public service. Moreover, many of the respondents emphasized on impolite attitude of the office employees towards them as IDPs.

The questioning revealed that internally displaced persons had encountered numerous problems upon application to the civil registry offices for legal record of marriage/divorce, birth, death after obtaining IDP status. Such problems might have related to denial of issuing death certificate of a person who had died at the area, which was outside government control. Commonly in such situations the IDPs went to the law to establish fact of death, which significantly delayed the procedure for obtaining necessary certificate.

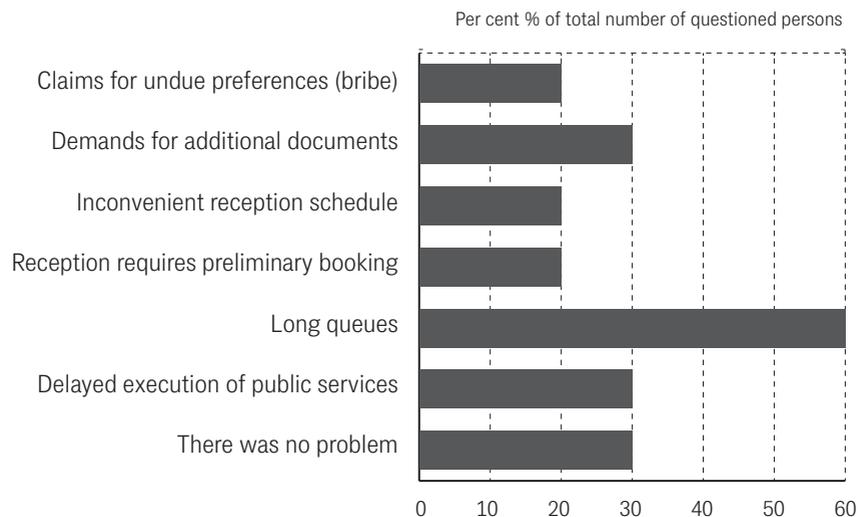
Another example of restrictions of rights involving the IDPs is a failure to accept inheritance before a notary-public who denies to issue a certificate of inheritance because the heir is not an IDP.

The sampling statistics shown below reflects the above-mentioned problems in the activities of the Social Security Departments, regional departments of the State Migration Service and Employment Centers.

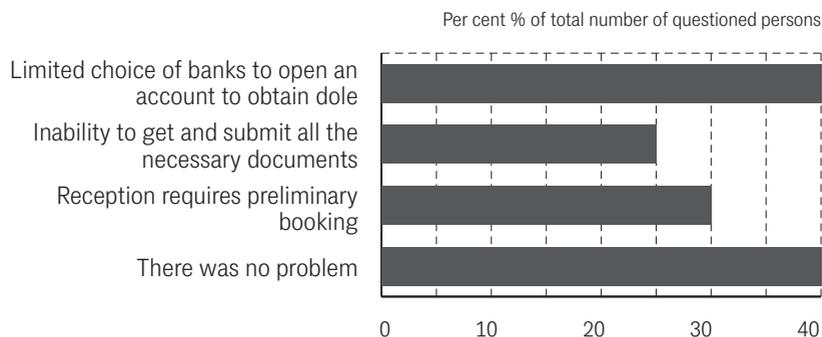
Problems the IDPs encounter upon applying to the Social Security Departments



Problems the IDPs encounter upon applying to the State Migration Service



Problems the IDPs encounter upon applying to Employment Centers

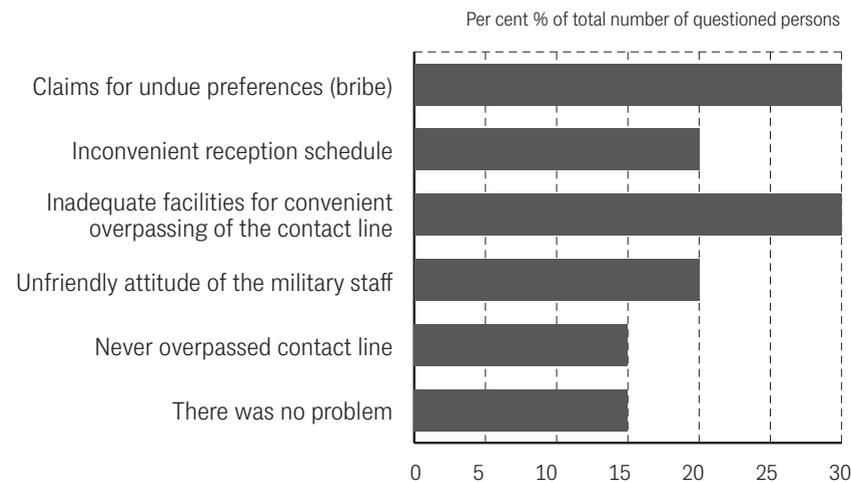


The problems the IDPs encounter in overpassing the administrative border with the Autonomous Republic of Crimea and the contact line in the Donetsk

and Luhansk regions. The freedom of movement issues of IDPs has become vital in the scope of checkpoint regulations within the Donetsk and Luhansk regions and the administrative border of the Autonomous Republic of Crimea.

The main obstacles for IDPs in this area arise due to insufficient traffic capacity of the corridors of a contact line, lack of border crossing points for rapid overpassing of the contact line and the administrative border with the Autonomous Republic of Crimea, huge queues where the IDPs may stay from 2 to 20 hours. Besides that, the claims for undue preferences in exchange for faster overpassing and unfriendly attitude of the military staff have become serious problems for people who overpass the contact line.

Problems the IDPs encounter upon overpassing contact line in the Donetsk and Luhansk regions



To overcome existing problems it was recommended to enhance material logistics of the checkpoints (installation of heating facilities, toilets, medical care offices, drinking water and medicine supplies, etc.), establish additional checkpoints, improve regulations of checkpoint crossing to terminate corruption of the officials.

Problems that IDPs encounter in exercising social rights (getting free temporary housing, social aid, pensions, employment, access to education). The most difficult problems for IDPs to solve are the problems of upholding their socio-economic rights.

The problem of housing remains one of the most substantial social barrier for IDPs. However, most respondents never applied to the local governments to obtain free temporary housing. Those IDPs who had already sought for a housing via local authorities noted that the suggested accommodations almost never met the needs of the applicants.

As for the rights of IDPs to medical care it's worth noting that those people basically experience issues of long queues, incompetent medical staff, impoliteness and discriminatory attitude of the medical staff, demands for additional documents, no/lack of information provided by a doctor upon request. Claims for undue preferences also occur when IDPs apply to medical personnel.

The obstacles the IDPs experience upon requesting for social aid and pensions worth special attention. Here goes the list of the most relevant issues:

- valid IDP certificate is required in any case;
- limited choice of banks to open an account;
- claims for undue preferences (bribe);
- demands for additional documents, information;
- demands to return to the abandoned place of residence to get necessary documents;
- verification of the IDP status is required (living conditions survey based on the idp registration information);
- full or partial retention of allowances that weren't paid prior to the IDP registration date;
- delayed payments;
- unreasonable denial to grant allowances;
- denial to grant allowances due to the continuous absence of the IDP at the place of registration (over 60 days);
- cancellation of allowances due to the inspections, IDP status verification;
- impoliteness and discriminatory attitude of the staff (to me as an IDP);

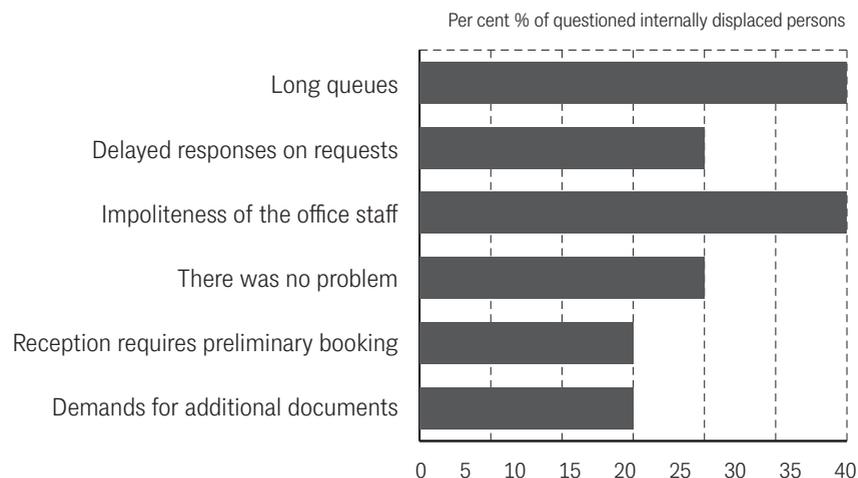
- lack of possibility to submit documents to obtain social aid (non-mobile people, long queues);
- no access to the information about procedures, no information desk;
- inability to get and submit all the necessary documents;
- no/lack of information provided upon request;
- unreasonable cancellation of the social aid, etc.

Speaking of the employment situation of IDPs we have to assume that it is not easy for internally displaced persons to get an appropriate job. Such situation is caused by several factors:

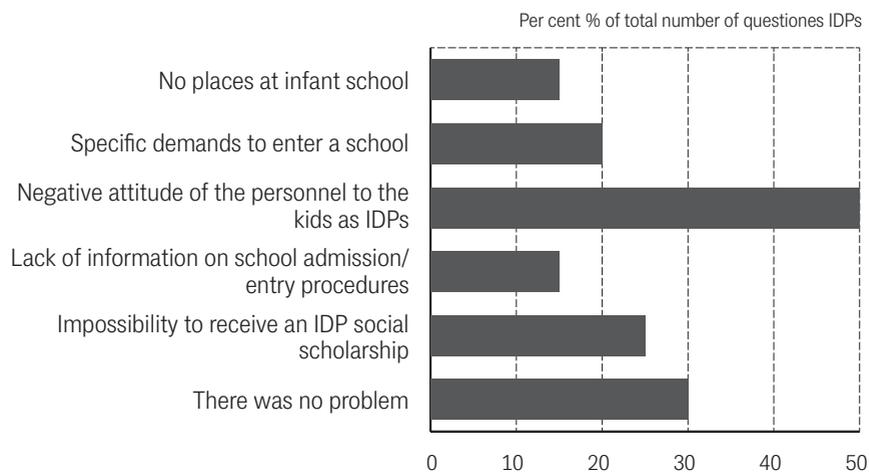
- lack of jobs that correspond their labor grade/profession;
 - low salary;
 - lack of documents required for employment;
 - the job is far too remote from a place of residence;
 - impoliteness or discriminatory attitude of the employer;
 - denial of legal certification of labor relations.
- The survey of the situation with the rights of IDPs to education indicates that there are still many unsolved problems in this area. Respondents emphasized on the following issues:
- no places at infant and comprehensive schools;
 - lack of information on school admission/entry procedures;
 - impossibility to receive an IDP social scholarship;
 - negative attitude to kids as IDPs, etc.

We can't help focusing on the facts of social scholarship denial for the students of the Donetsk and Luhansk regions. Basically, they are denied to receive that scholarship because they had entered high schools before the counter-terrorist operation commenced at that area. Besides, they have their place of residence registered at dormitories and thus they cannot obtain IDP status since the dormitory rooms are provided by high schools mandatorily for most non-resident students. To get the IDP certificates such students have to change their place of residence, then they get back to the dormitories. Such circumstances along with poor incomes of the IDP families significantly drop the chances of those students to get the related social aid and make educational process even more harder for them.

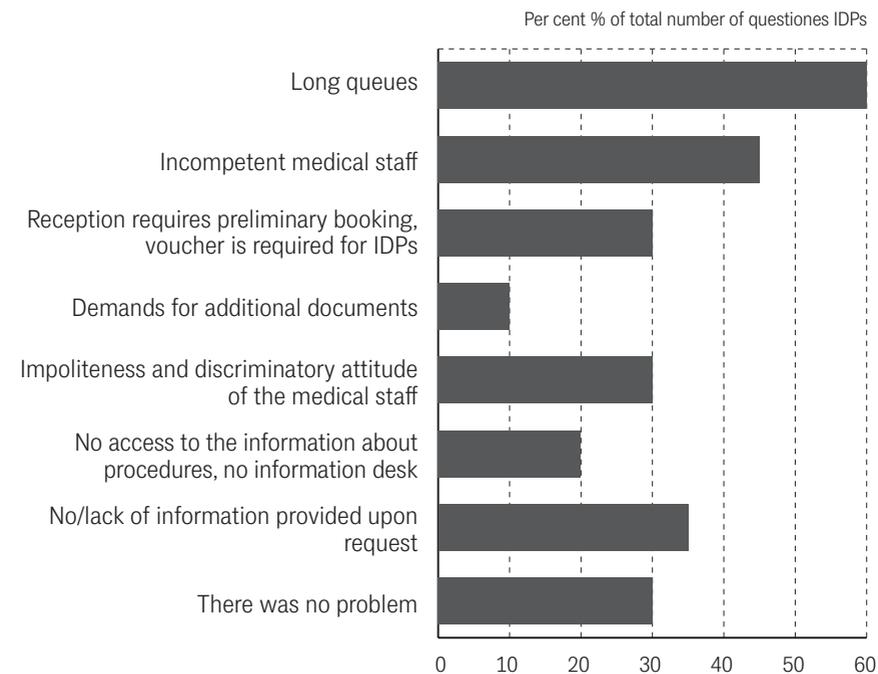
Problems the IDPs encounter upon applying to local governments and municipalities for free temporary housing



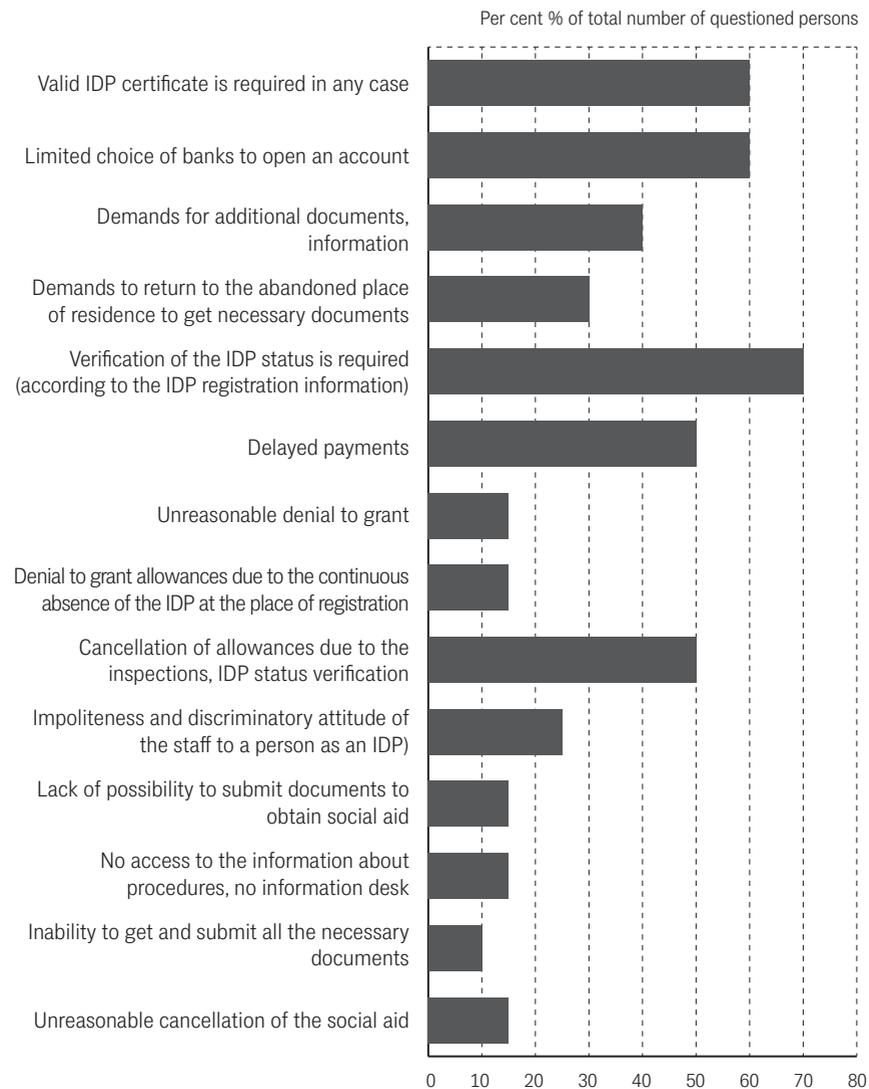
Problems the IDPs encounter upon enjoyment of their right to education



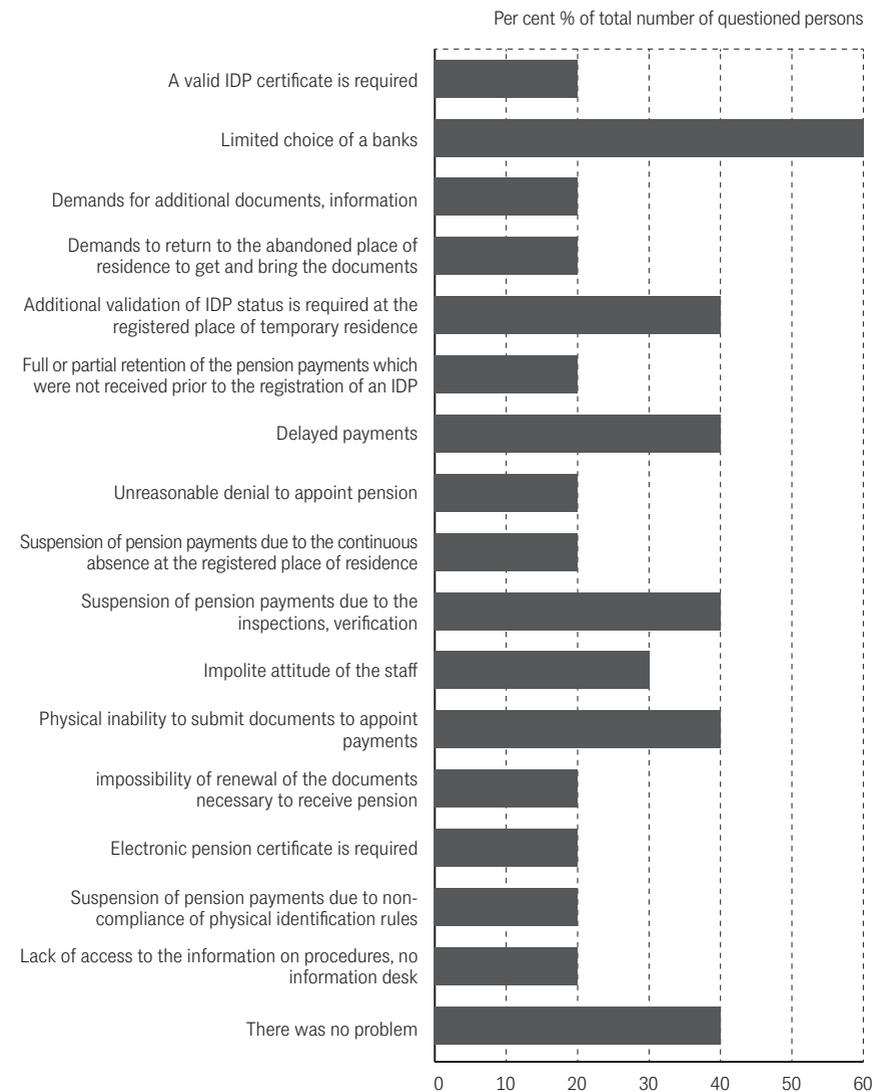
Problems the IDPs encounter upon applying to healthcare institutions



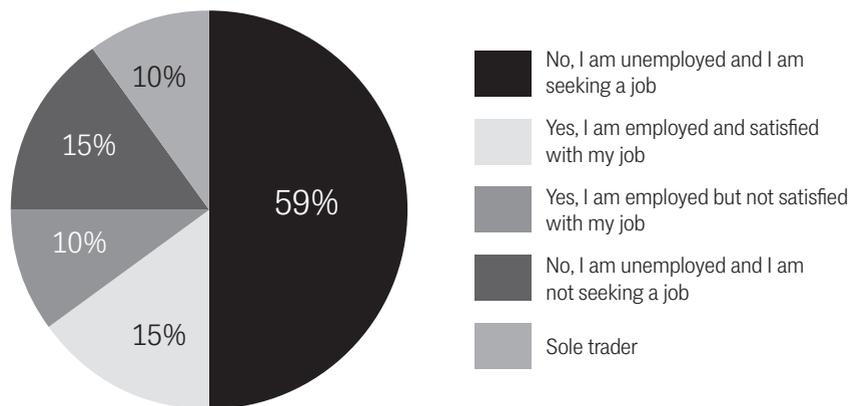
Problems the IDPs encounter upon applying for social assistance



Problems the IDPs encounter upon pension appointment/renewal

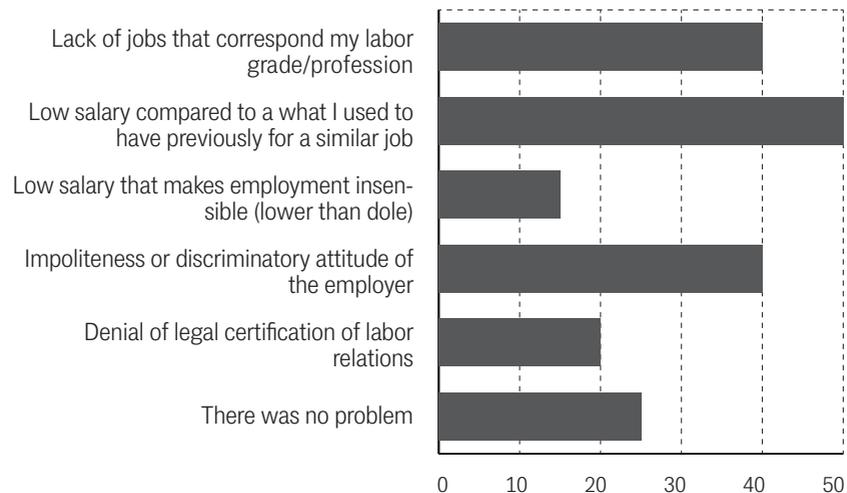


Distribution of respondents by employment criteria



Employment problems of the IDPs

Per cent % of total number of questioned persons

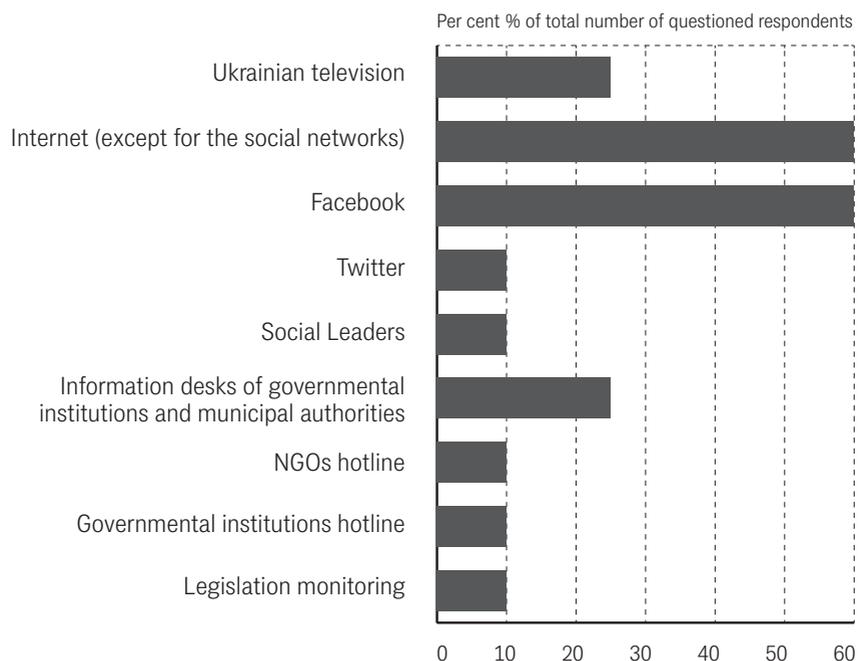


To overcome barriers in exercising of the rights of IDPs in this area it was recommended to work out a complex of socio-economic measures. For example, the problems of housing could be solved by launching nationwide mortgage projects or programs of rental payment refundments. Moreover, the quality of public services need significant improvement especially at the areas of health care, education, pension and social assistance systems in order to remove unnecessary bureaucratic barriers. More close attention should be drawn to the situation of employment of internally displaced persons, it may require preparation of new projects to solve this crucial problem.

Problems that IDPs encounter upon enjoyment of their rights to protect personal data, access to information on the rights of IDPs, etc. The most urgent issue in this area is violation of personal data regulations committed by local authorities which involve disclosure of the IDPs' personal data without their consent and knowledge.

Speaking of these issues it is worth mentioning about the access to various sources of information on the rights of IDPs which is introduced in the table below. Information sources like Internet sites and social networks are much more convenient for IDPs than, for example, hotlines of municipalities or NGOs. However, the hotlines can provide individual consulting for IDPs according to their specific requests.

Information sources on the rights of IDPs



It was recommended that governmental institutions and municipalities should act in accordance with the Law of Ukraine “On the Protection of Personal Data” and as well improve facilities to inform IDPs on their rights, notably by means of the Internet.

Summary of the survey on the executive bodies

Information on the interviewed respondents. During the project execution the experts interviewed the officials of the divisions of regional state administrations who had been assigned to work with the issues of implementation of the rights of internally displaced persons. The interviewing was conducted in the cities of Kramatorsk, Slovyansk and Severodonetsk including anonymous online questioning of the officials upon the questionnaires created by the group of Project experts.

Questions the government officials had to answer on the issues of internally displaced persons. The anonymous questioning included the following questions on implementation of the rights of internally displaced persons:

1. Have you experienced any management changes in your organization with the emergence of internally displaced persons?
2. Do you think that the number of employees assigned to work with IDPs in your organization is adequate?
3. Have there ever happened the situations when internally displaced persons were unable to obtain public service?
4. For what reason the internally displaced persons did not obtain public service?
5. Is your organization aware of the systematic problems or violations of the IDPs’ rights related to the procedures of obtaining/preparation of the registration documents?
6. Is your organization aware of the systematic problems or violations of the IDPs’ rights related to the social standards upholding?
7. Are there any other known problems or violations of the IDPs’ rights to the social standards upholding? Please provide details.
8. Do you think that the problem of free temporary housing for IDPs is serious enough?

9. Are there any known facts that IDPs were denied medical treatment either because of the IDP status or because they haven't got registration of permanent residence?
10. How could you evaluate the quality of medical care of IDPs in the healthcare institutions?
11. Is your organization aware of any difficulties or restrictions of the IDPs' rights to freedom of movement?
12. If IDPs ever contacted your organization because of the troubles with overpassing the contact line or the administrative border with the Crimea, please specify what the problem was about in detail?
13. Is your organization aware of the systematic problems or violations of labor rights of the IDPs?
14. How could you evaluate the situation with employment of IDPs in your region today?
15. Is your organization aware of the facts that the IDPs were being deprived of their rights to peaceful assembly?
16. Do you assume that the voting rights of the IDPs are being violated in Ukraine?

More detail on the question list is in *Appendix 2*.

Each question allowed from 3 to 12 options to answer; the respondent could also submit information beyond any of the suggested answers, since the last option of the possible answer was "Other".

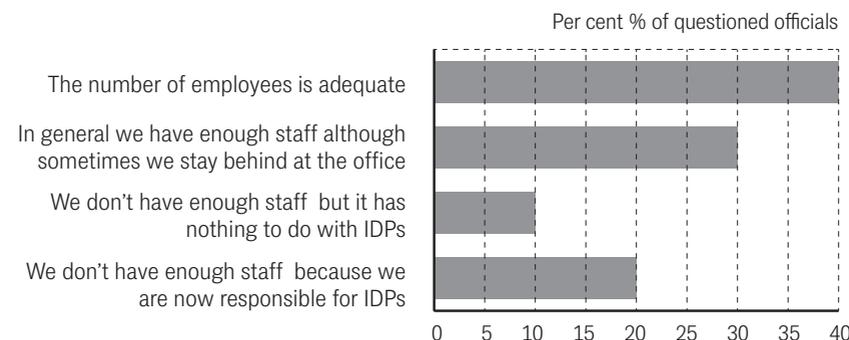
According to the results of survey, the expert group came to the following conclusions.

Problems that IDPs experience when they apply to the executive bodies, which provide assistance to IDPs.

It should be noted that the first and foremost task in ensuring the effective cooperation between IDPs and governmental institutions is to properly train the staff. It has a direct impact on the situation with the queues at the authorities, ability of the staff to quickly and properly respond to various questions of IDPs and solve the issues. At the same time, the results of survey indicate that most executives of the governmental institutions believe that the staff list of the departments is sufficient to solve all the tasks they have

been charged. Nevertheless, they also note that the governmental employees have considerable workload that could be distributed between several persons. At the same time, all interviewed executives emphasized that since the beginning of the armed conflict in the Donetsk and Luhansk regions the staff list of the governmental institutions assigned to work with the issues of the rights of IDPs has increased significantly.

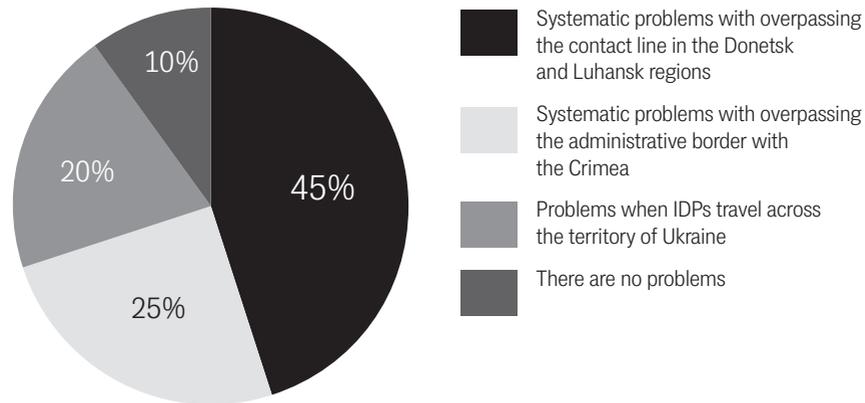
Situation with the staff list of employees who are assigned to work with the issues of the rights of IDPs



Recommended measures to enhance the results of this activity are to provide the proper staffing of the governmental institutions to work on IDPs' issues, increase level of social security of the related employees, conduct trainings aimed at improving skills and competence of the governmental officials.

Problems that IDPs encounter when overpassing the administrative border with the Autonomous Republic of Crimea and the contact line in the Donetsk and Luhansk regions. All employees and executives of the governmental institutions claim that there are systematic problems in this area. Among the reasons that affect this situation is lack of funds to spend on the proper setting up of the crossing points as well as lack of a trained staff. Respondents also noted that the Donetsk and Luhansk regions hold large amount of population which negatively affects the acceptance rate of the crossing points.

Situation on the freedom of movement of IDPs according to the conclusions of the governmental officials



Per cent % of questioned officials of governmental institutions

Recommended measures for complete implementation of the rights of IDPs in this area are to increase funding for the executive bodies which is necessary to optimize checkpoint procedures at the contact line in the Donetsk and Luhansk regions and the administrative border with the Autonomous Republic of Crimea.

Problems that IDPs encounter upon exercising their social rights (free temporary housing, social assistance, pensions, employment, peaceful assembly, access to quality health care, education, elections etc.). The results of survey indicate on the systematic problems of providing the IDPs with free temporary housing. Thus, a great deal of requests of IDPs towards local municipalities is about housing issue. At the same time the municipal officials pointed out that if this problem was solved exclusively for the IDPs (housing in dormitories and apartments) it may have caused confrontation between IDPs and local population since the housing situation at the areas where the survey was conducted remains complicated. The new category of applicants like IDPs make the situation even more challenging.

The most vulnerable groups of IDPs which experience such issues are the large families and single mothers. There are places of compact residence (for example, Svyatogorsk Lavra) equipped for them, as well as for other IDPs, where they can temporarily reside or use such places as intermediate points while moving along the country territory. However, such measures are not enough to fully meet the needs of IDPs for housing.

The next urgent problem in the category of social standards of IDPs is identification of pensioners when they receive the relevant payment, as we are familiar with the cases when payments were transferred to the individuals who had already died.

As to the other areas of implementation of the rights of IDPs, the list of issues indicated by the officials correspond to those we heard from the IDPs themselves. Accordingly, the governmental executives noted that getting over those obstacles becomes one of the most pressing questions since the internally displaced persons can be considered integrated in the community once they are able to exercise same rights as they used to have at their place of residence prior to displacement.

The activities of the centers of free legal aid, which provide assistance to IDPs in these regions, deserve special attention. Even though in the Donetsk and Luhansk regions there are many specialized NGOs, which provide legal assistance to the IDPs, including NRC, DRC, "The right to protection", etc., the activities of the centers of free legal aid need further improvement because NGOs cannot represent the IDPs at the courts. Hence, this function is exercised by the Centers of free legal aid.

Employees of those centers indicate that most of applications from IDPs relate to:

- establishing of jural facts which involve solving the issues of acceptance of documents from the areas, which are outside government control. There are some positive tendencies here as the notaries can accept some particular documents issued at the areas which are outside government control;
- pension appointment (there are issues with privileged pensions but the courts decide most cases in favor of benefit recipients);
- inheritance.

However, the employees of the Centers of free legal aid emphasize on the problem of acceptance of transactions made at the areas which are outside government control. These transactions are considered as non-legitimate in Ukraine, which cause problems for IDPs in most cases.

Recommendations to overcome socio-economic barriers for IDPs in most cases correspond to the recommendations on the similar issues reiterated by the IDPs themselves. That includes launching nationwide mortgage projects or programs of rental payment refundments. Besides that, the quality of public services need significant improvement especially at the areas of health care, education, pension and social assistance systems in order to remove unnecessary bureaucratic barriers.

Positive moves in this area are The Donetsk-Ukrainian Kulak Project, which is aimed at providing loans for business renewal, and The Social Office Project, which is aimed at renewal and improvement of procedures to provide public services to the population and IDPs, introducing innovations, etc.

However, in addition to the above recommendations the project experts point out at the need of integration of IDPs into the community where they live. In order to avoid conflicts between IDPs and local communities there should be more social interaction, which is supposed to bring IDPs and local people closer to each other. Also, the executive bodies should concentrate on establishing facilities for the kids, where the children of IDPs and local inhabitants could be brought together, to raise, for example, the common level of patriotism. Besides that, the governmental institutions should focus on renovation of schools, reconstruction of roads and street lighting in the regions where the survey was conducted.

Research of the problems that IDPs encounter upon exercising their voting rights and rights to peaceful assembly, etc. Employees of the governmental institutions prove the existence of systematic problems involving implementation of the voting rights of IDPs, that is, the limited access of people to the nationwide elections. At the same time, no particular violations of the rights to peaceful assembly for internally displaced persons are known.

It was recommended to initiate proper legislative regulations on the participation of IDPs in the elections and introduce electronic voting over the Internet.

Summary of the survey on the local governments

Information on the interviewed respondents. During the project execution the experts interviewed the employees of local municipalities who had been assigned to work with the issues of implementation of the rights of internally displaced persons. The interviewing was conducted in the cities of Kramatorsk, Sloviansk and Severodonetsk, including anonymous online questioning of the officials upon the questionnaires created by the group of Project experts.

Questions that the employees of municipal governments had to answer on the issues of internally displaced persons. The anonymous questioning included the following questions on implementation of the rights of internally displaced persons:

1. Have you experienced any management changes in your organization with the emergence of internally displaced persons?
2. Do you think that the number of employees assigned to work with IDPs in your organization is adequate?
3. Have there ever happened the situations when internally displaced persons were unable to obtain public service?
4. For what reason the internally displaced persons did not obtain public service?
5. Is your organization aware of the systematic problems or violations of the IDPs' rights related to the procedures of obtaining/preparation of the registration documents?
6. Is your organization aware of the systematic problems or violations of the IDPs' rights related to the social standards upholding?
7. Are there any other known problems or violations of the IDPs' rights to the social standards upholding? Please provide details.

8. Do you think that the problem of free temporary housing for IDPs is serious enough?
9. Are there any known facts that IDPs were denied medical treatment either because of the IDP status or because they haven't got registration of permanent residence?
10. How could you evaluate the quality of medical care of IDPs in the healthcare institutions?
11. Is your organization aware of any difficulties or restrictions of the IDPs' rights to freedom of movement?
12. If IDPs ever contacted your organization because of the troubles with overpassing the contact line or the administrative border with the Crimea, please specify what the problem was about in detail?
13. Is your organization aware of the systematic problems or violations of labor rights of the IDPs?
14. How could you evaluate the situation with employment of IDPs in your region today?
15. Is your organization aware of the facts that the IDPs were being deprived of their rights to peaceful assembly?
16. Do you assume that the voting rights of the IDPs are being violated in Ukraine?

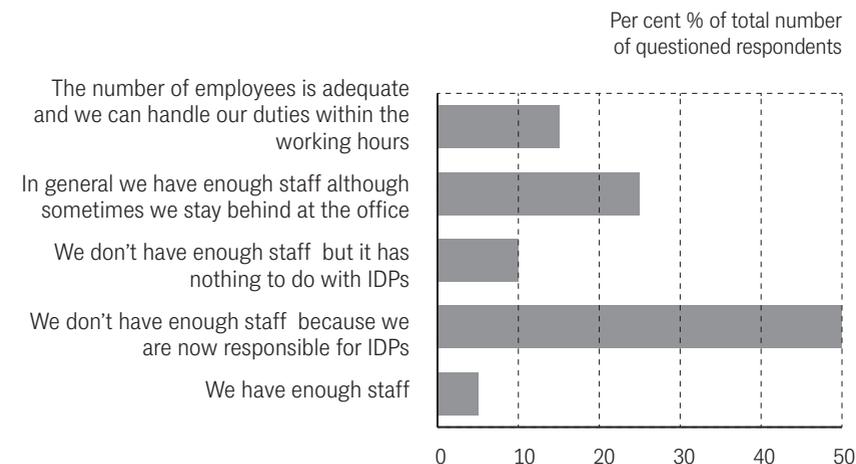
More detail on the question list is in *Appendix 3*.

Each question allowed from 3 to 12 options to answer; the respondent could also submit information beyond any of the suggested answers, since the last option of the possible answer was "Other".

According to the results of survey, the expert group came to the following conclusions.

Problems that IDPs experience when they apply to the municipal governments, which provide assistance to IDPs. The crucial issue, which still remains, is insufficient staff list of the employees who are supposed to deal with IDPs' issues. Moreover, local governments do not always have enough funds to set up necessary premises to provide quality assistance to IDPs.

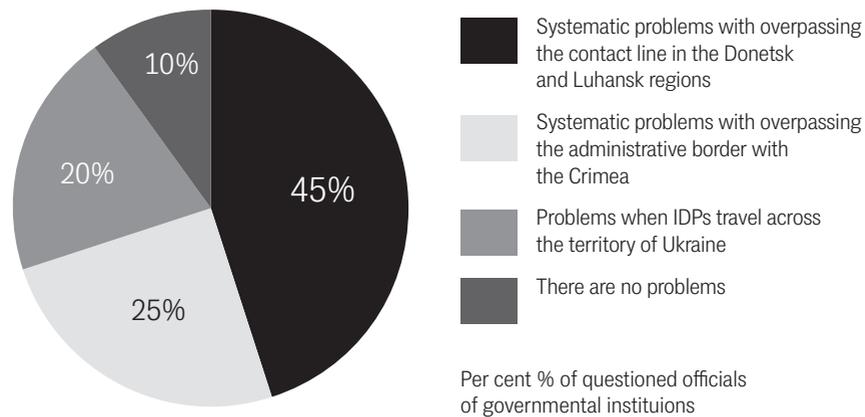
Situation with the staff list of employees who are assigned to work with the issues of the rights of IDPs



Recommended measures to enhance the results of this activity are to provide the proper staffing of the local governments to work on IDPs' issues, conduct trainings aimed at improvement of skills and competence of municipal officials. Additional funds are required to provide the needs of IDPs.

Problems that IDPs encounter in overpassing the administrative border with the Autonomous Republic of Crimea and the contact line in the Donetsk and Luhansk regions. All employees and executives of the municipal governments claim that there are systematic problems in this area. Among the reasons that affect this situation is lack of funds to spend on the proper setting up of crossing points as well as lack of trained staff. Respondents also noted that the Donetsk and Luhansk regions hold large amount of population which negatively affects the acceptance rate of the crossing points.

Situation on the freedom of movement of IDPs according to the conclusions of the municipal officials



Recommended measures for entire implementation of the rights of IDPs in this area are to increase funding for local governments, which is necessary to optimize checkpoints procedures at the contact line in the Donetsk and Luhansk regions and the administrative border with the Autonomous Republic of Crimea.

Problems that IDPs encounter upon exercising their social rights (free temporary housing, social assistance, pensions, employment, peaceful assembly, access to quality health care, education, elections etc.). The results of survey indicate that the employees of local municipals spoke of the similar problems we had known from the officials of the executive bodies and the IDPs themselves.

At the same time, the municipal officials pointed out that if this problem was solved exclusively for the IDPs (housing in dormitories and apartments) it may have caused confrontation between IDPs and local population since the housing situation at the areas where the survey was conducted remains complicated. The new category of applicants like IDPs make the situation even more challenging. However, the representatives of municipal governments emphasized on a great stream of applicants they have to deal with, and

most of them request financial aid. For example, 42966 applicants were asking for such aid in Kramatorsk of total 50428 of registered IDPs. This fact proves that social position of IDPs requires much closer attention.

Municipal governments deny to grant financial aid in case IDPs have own bank deposits and accommodation. Sometimes such aid is suspended in case they stay at the area of anti-terrorist operation for more than 60 days. However, those decisions of municipalities often cause lawsuits to the courts to be reversed later.

Besides, the experts figured out that most of the registered IDPs in the Donetsk and Luhansk regions had reached retirement age. Those people are more vulnerable than employable population, thus they need special protection.

Respondents mention about specific migration of IDPs between the cities of Ukraine, so the people, who were denied social aid, move to other cities to have necessary payments assigned or renewed.

Recommendations to solve this scope of issues include increasing of budgetary financing to grant necessary social aid to IDPs.

Research of the problems that IDPs encounter upon enjoyment of their rights to protect personal data, access to information on the rights of IDPs, exercising their voting rights and rights to peaceful assembly, etc. Except for the problems revealed within the questioning of IDPs and officials of the executive bodies, it was discovered that municipal governments never restricted the rights of IDPs to peaceful assembly.

Employees of local governments also noted about some systematic problems of implementation of the voting rights of IDPs, however only a few judicial cases on this matter are currently known. At the same time, we can foresee more IDPs going for a law once the nationwide elections launch.

Recommendations in this area are to improve the activities of municipal government employees to ensure the implementation of the voting rights of IDPs and their rights to peaceful assembly.

Summary of the survey on the NGOs

Information on the interviewed respondents. During the project execution the experts interviewed representatives of the NGOs who provide assistance to internally displaced persons. The interviewing was conducted in the cities of Kramatorsk, Slovyansk and Severodonetsk including anonymous online questioning of the NGO members upon the questionnaires created by the group of Project experts.

Questions that the NGO members had to answer on the issues of internally displaced persons. The anonymous questioning included the following questions on implementation of the rights of internally displaced persons:

1. Is your organization aware of the systematic problems or violations of the IDPs' rights related to the procedures of obtaining/preparation of the registration documents?
2. In case IDPs ever applied to your organization for solution of the problems related to the procedures of obtaining/preparation of the IDP certificates please specify what the problems were about?
3. Is your organization aware of the systematic problems or violations of the IDPs' rights related to the social standards upholding?
4. Are there any other known problems or violations of the IDPs' rights to the social standards upholding? Please provide details.
5. Are there any known facts that IDPs were denied medical treatment either because of the IDP status or because they haven't got registration of permanent residence?
6. How could you evaluate the quality of medical care of IDPs in the healthcare institutions?
7. If the IDPs ever contacted your organization because of the violation of their rights to social aid (except for the pension) please specify details.
8. Do you think that the problem of free temporary housing for IDPs is serious enough?

9. Is your organization aware of any difficulties or restrictions of the IDPs' rights to freedom of movement?
10. If IDPs ever contacted your organization because of the troubles with overpassing the contact line or the administrative border with the Crimea, please specify what the problem was about in detail?
11. Is your organization aware of any other problems or restrictions of the IDPs' rights to freedom of movement?
12. Is your organization aware of the systematic problems or violations of labor rights of the IDPs?
13. How could you evaluate the situation with employment of IDPs in your region today?
14. Is your organization aware of the facts that the IDPs were being deprived of their rights to peaceful assembly?
15. If IDPs ever contacted your organization because of abuse of their rights to education, please provide details.
16. Do you assume that the voting rights of the IDPs are being violated in Ukraine?

More detail on the question list is in *Appendix 4*.

Each question allowed from 3 to 12 options to answer; the respondent could also submit information beyond any of the suggested answers, since the last option of the possible answer was "Other".

According to the results of survey, the expert group came to the following conclusions.

Problems that IDPs experience when they apply to the divisions of the executive bodies and municipal governments, which provide assistance to IDPs. The NGO members claim that governmental and municipal authorities do not take sufficient measures, including psychological help, to solve the problems of IDPs. Moreover, the government keep ignoring the issues that exist at the "grey zone".

Problems that IDPs encounter in overpassing the administrative border with the Autonomous Republic of Crimea and the contact line in the Donetsk and Luhansk regions. In addition to the problems revealed within the questioning of the previous respondents, the NGO representatives also noted

about problems of insufficient facilities at the area that is adjacent to the contact line. It compels people to use schools and other facilities located at the area which is outside government control. This is caused by absence of checkpoints at the area that is adjacent to the contact line, which keeps people at the non-controlled territory without letting them go to schools and use other facilities at the area which is under Ukrainian control.

In addition, poor technical equipment and low acceptance rate of the crossing points negatively affect the overall situation. In fact, NGO representatives used to draw attention to the fact that crossing points were never equipped with heating facilities which made it uncomfortable to stay in the premises.

It has been strongly recommended to create all necessary facilities and ensure logistics at the area which is adjacent to the contact line in the Donetsk and Luhansk regions.

Problems that IDPs encounter upon exercising their social rights (free temporary housing, social assistance, pensions, employment, peaceful assembly, access to quality health care, education, elections etc.). In general, these issues have much to do with the lack of psychologists, as the IDPs basically stay away from the psychologists because of their poor qualification, and there are not too many of them in the regions of survey. Besides, public representatives emphasized on insufficient social aid to the IDPs and high unemployment rate.

Housing problem is also one of the most crucial for IDPs. NGOs constantly experience lack of government support to establish offices for those organizations and maintain them, though NGOs make efforts on their own to provide IDPs with temporary accommodations. It is worth noting that municipal authorities impose fines on NGOs for exceeding electricity consumption limits, which negatively affects their activities of the assistance to IDPs.

IDPs themselves get into similar situations when they receive bills for gas while their houses were destroyed a while ago. Those facts indicate at significant problems in the activity of government in the human rights sphere. Same happens to former sole traders who are also IDPs now but keep receiving tax bills regardless of the fact that they aborted business because of the armed conflict. Being unable to pay those bills they have to remain at the area of anti-terrorist operation or leave for Russian Federation.

People who reach retirement age also face significant problems. For example, if pensioners do not pass physical identification at Oschadbank, any payments of social security and pensions are suspended, which negatively affects their social protection level.

Another up-to-date problem relate to non-acceptance of passports issued in some districts of the Donetsk and Luhansk regions from 2014 to present day. Any ID documents ought to be verified closely which is a very complicated procedure since a person has to prove their validity. He is also responsible to take appropriate measures to renew lost documents by submitting originals of vital records, voter registration extracts, school certificates, diplomas, providing witnesses. By undergoing such difficulties people experience serious drop in social standards upholding which can be considered as a violation of principle of interaction between the state and a private individual.

It is also important here to mention the situations when IDPs are fined for non-compliance with the rules of registration of the place of residence, even though they do not have any place of residence to register at all. This makes opening a bank account impossible, this as well makes a person deprived of other social guarantees.

Recommendations to solve the issues mentioned above include establishing more rehab facilities for the children of the fallen soldiers and other people who deceased an the area of anti-terrorist operation (like the facilities which already function in the Western Ukraine). It is also important to elaborate social aid projects for IDPs which are supposed to allow transfers of funds to electronic vouchers which can be used to pay for essential commodities in particular stores. The “grey zone” issues as well require immediate measures such as supplies of grain, poultry, irrigation systems, bees, inoculums, other plants and animals for further agricultural productivity.

Problems that IDPs encounter upon enjoyment of their rights to protect personal data, access to information on the rights of IDPs, etc. In most cases the NGO representatives spoke of the same problems we had known from the previous respondents, stressing the point of limitation of the voting rights of IDPs.

Recommended ways to solve these issues are to provide full range of the voting rights for IDPs upon submission of the tax identification number certificate.

Recommendations based on survey

1. Proper staffing of social security departments in the cities with largest populations of IDPs to ensure normal working process with people who need social assistance in accordance with the laws.
2. Reducing requirements for property status of internally displaced persons to ensure opportunities for social benefits (with regard to practice of courts in the cases of illegal denials to assign social benefits).
3. Adopting amendments to the laws to guarantee a full amount of voting rights to internally displaced persons.
4. Adopting amendments to the laws to establish the exact list of documents and transactions issued at the occupied areas which could be accepted by notaries of Ukraine in the notarial certification procedures and by the courts in establishing of certain jural facts. Conditions to accept such documents and transactions have to be determined as well.
5. Updating employment projects for IDPs, including projects on employment of IDPs at the areas of cultural, educational, consumer and other services to meet the needs of IDPs.
6. Working out special measures for global integration of IDPs into the territorial communities on the basis of European experience of integration of refugees.
7. Implementation of positive achievements of the Project “The Donetsk (Ukrainian) Kurkul” in other regions which could provide additional loans for business restoration.
8. Implementation of accomplishments of the Project “Social office” aimed at improving public services for IDPs.
9. Establishment of new children’s camps for better integration of internally displaced kids into communities, for patriotic education, etc.
10. Analysis of possibilities of the state and local budgets to compensate the IDP settlements for their communal expenses.
11. Improvement of measures for psychological and other support of children, young people, parents and other IDPs, as well as for people who remain in “grey zones”.
12. Increase of humanitarian aid, material and psychological assistance to people who remain in “grey zones”.
13. Updating the Project “The School bus” with consideration for the needs of schoolchildren (including kids of internally displaced persons) who reside in “grey zones”, increasing the number of school buses for those needs.
14. Improvement of public lighting at the localities situated near the area of anti-terrorist operation.

Review of the court decisions in the cases originated in applications of internally displaced persons on upholding of their rights

The real protection of the rights of internally displaced persons is impossible without the proper functioning of the judicial system of Ukraine. The review of court decisions executed within the project has allowed to:

- find out the main problems that IDPs encounter when they go for a law and the obstacles in implementation of their right to a fair justice once the procedures commence;
- determine the major violations of the rights of IDPs that make them to go for a law and evaluate the effectiveness of judicial protection of their rights;
- determine the deficiencies of legislative regulations of the IDP issues and work out ways to overcome existing problems;
- estimate the awareness of courts of the international and national standards for the protection of the rights of IDPs and possible ways to apply it in practice.

The evaluation system used in review and methods to analyse court decisions in the cases brought by IDPs on the protection of their rights can be further used to periodically estimate the effectiveness of judicial system to uphold the violated rights of IDPs.

The review has been conducted on the basis of analysis of court decisions stored in the Unified State Register of Court Decisions (hereinafter referred to as USRCR, <http://www.reyestr.court.gov.ua>), in the cases where the violated rights of IDPs was the matter.

The main indicators of the analysis were the following:

- the subject of a case (what rights or interests were in need of judicial protection);
- the legislative acts applied by a court (whether the court applied the correct legislative act, was it sufficient to motivate the decision);

- compliance of legislation of Ukraine with the Constitution of Ukraine, international treaties or regional standards ascertained by the court;
- whether a court decision was based on adequate arguments;
- whether the operative part of a court decision had clear statements;
- simplicity of a court decision.

To properly conduct a review the most problematic areas of legal regulation of the rights of IDPs were highlighted and the methods of analysis of the judicial practice were determined. Consequently, the following aspects were under review:

- access to justice (denial to consider a complaint because it was filed to the wrong jurisdiction, i.e. not to a court according to the plaintiff's place of residence, exemption/non-exemption from the court fees, etc.);
- obtaining of the IDP status (verification of the fact of previous residence at the area the person was forced to move from, issuing/renewal of the IDP certificate);
- verification, issuing or renewal of the ID documents;
- establishing of certain jural facts (for example, facts of residence at certain period, etc.) and issuing legal records of vital events;
- implementation of the right to freedom of movement;
- family disputes (maintenance claims, divorce, applications for residency order of a child, etc.);
- housing disputes (arrangement of free temporary housing);
- health care issues (problems related to the access to health care institutions, problems of disabled IDPs);
- employment issues;
- social security issues including social aid (which involves most judicial cases) and provision of pensions;
- issues of enjoyment of the right to education;
- issues of enjoyment of the voting rights;
- ownership disputes;
- issues of enjoyment of the right to peaceful assembly;
- issues of enjoyment of the right to personal data protection;
- inaction of executive bodies which fail to adopt proper legal regulations for upholding of the rights of IDPs.

The list of particular types of cases has been formed according to the **List of human rights and indicators** which was intended to review the activities in the scope of protection of IDPs' rights, notably within the execution of the Council of Europe Project "Strengthening the Human Rights Protection of IDPs in Ukraine" and Action Plan For Ukraine 2015-2017. The results of preliminary analysis were also taken into account to reduce the search space.

Relevant court decisions were being searched by:

- typical keywords and phrases for a certain category of cases (for example, a search by keywords "internally displaced persons" finds links to 10.000 cases logged to USRCR, including 4.000 in the Donetsk, Lugansk and Kharkiv regions);
- legislation acts the judgments were grounded on, such as:
 - The Procedure on registration and issuance of a certificate on the registration of internally displaced persons (13852 judgments overall, including 9524 judgments in the Donetsk, Luhansk and Kharkiv regions);
 - Cabinet of Ministers of Ukraine Enactment "On the registration of internally displaced persons" (4194 judgments overall, including 3234 judgments in the Donetsk, Luhansk and Kharkiv regions);
 - Cabinet of Ministers of Ukraine Enactment "On the issuing of social aid to internally displaced persons" (3352 judgments overall, including 2694 judgments in the Donetsk, Luhansk and Kharkiv regions);
 - Temporary control procedures of overpassing the contact line by persons, vehicles and freight carriers (2060 judgments overall, including 1868 judgments in the Donetsk, Luhansk and Kharkiv regions);
 - Control procedures on the issuing of social aid to internally displaced persons at the place of their residence (Cabinet of Ministers of Ukraine Enactment No. 365 of June 8, 2016; 1420 judgments overall, including 992 judgments in the Donetsk, Luhansk and Kharkiv regions), etc.

The research data is anonymous because the decisions of the definite judges were not evaluated. At the same time, the cases logged to the Unified State Register of Court Decisions were taken into consideration since this data is accessible to public.

The area of research included the Donetsk, Luhansk and Kharkiv regions where the courts were giving judgments over a stretch of May 2014 to January 2018.

The summary of the review could be used for: 1) further judicial research of the issues of IDPs by the strategy that was previously worked out; 2) evaluation of the retrieved information in respect to the international standards of upholding of the human rights of IDPs and practice of the European Court of Human Rights; 3) statistical analysis of the cases involving the rights of IDPs; 4) introduction of best practices of dispute decisions in the IDP cases for the judicial system of Ukraine; 5) implementation of the international standards of protection of the human rights of IDPs, practice of the European Court of Human Rights and regulations of the national legislature for the further judgments to be built upon and for the training courses for judges, lawyers, law school students, etc.; 6) working out amendments to the laws which is supposed to improve protection of the human rights of IDPs.

The volume of court cases reviewed

A total number of 11835 cases were reviewed (judgments of the courts in the Donetsk, Luhansk and Kharkiv regions given in the IDP cases; from here on any statistical data relates to those judgments).

DISTRIBUTION OF CASES BY THE TYPE OF COURT PROCEEDINGS

Administrative cases – 7808 (66%)

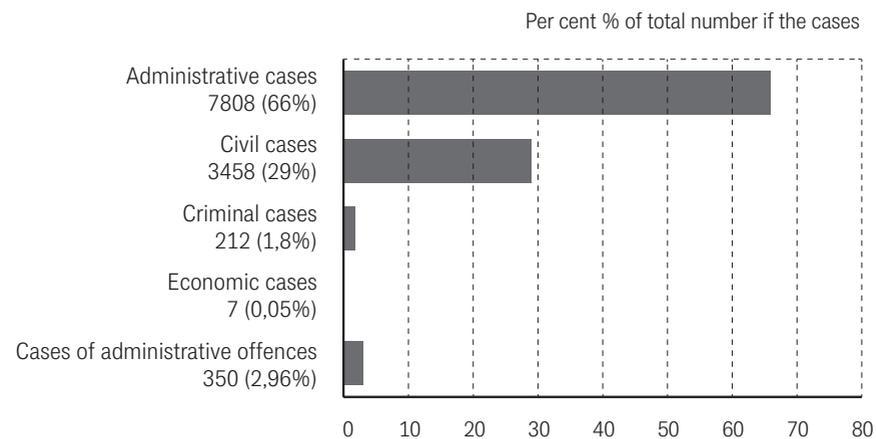
Civil cases – 3458 (29%)

Criminal cases – 212 (1,8%), including cases with sentences pronounced – 7;

Economical case – 7 (0,05%)

Cases of administrative offences – 350 (2,96%).

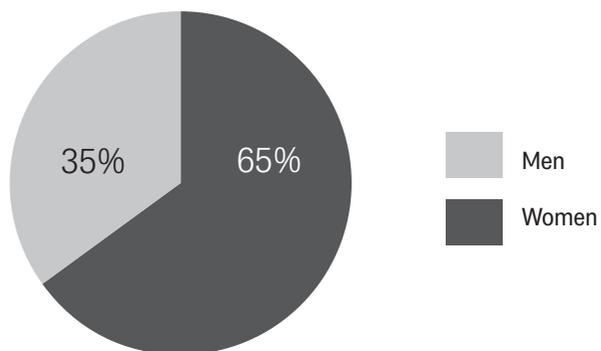
Distribution of cases by the type of court proceedings



DISTRIBUTION OF PLAINTIFFS BY SEX

Since the official data does not indicate the sex of each party, the experts determined the plaintiff's sex by implicitly studying the decisions in random 100 cases. The results might not be entirely accurate but it was determined that 65% of suits were filed by women.

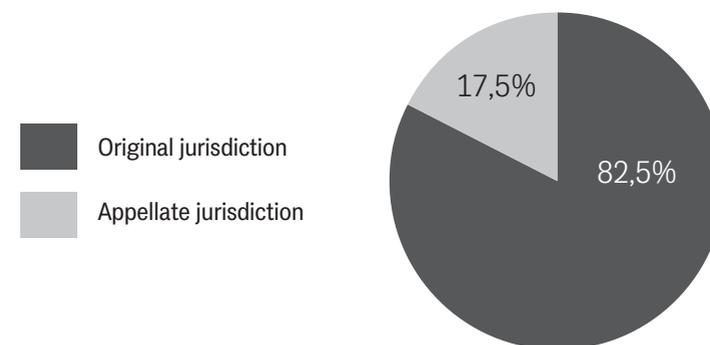
Distribution of plaintiffs by sex



DISTRIBUTION OF CASES BY JURISDICTION

Original jurisdiction – 9763 (82,5%)
Appellate jurisdiction – 2072 (17,5%)

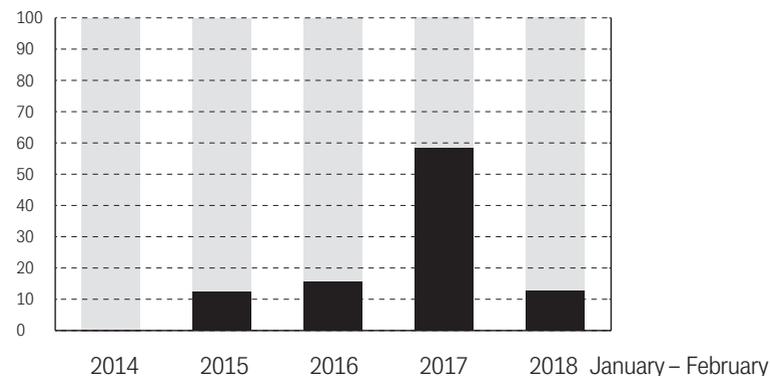
Distribution of cases by jurisdiction



YEAR-BY-YEAR RATE

In 2014 the courts decided 9 cases (0,12%), in 2015 – 1501 cases (12,7%), in 2016 – 1885 cases (15,9%), in 2017 – 6921 cases (58,48%), in January and February of 2018 – 1519 cases (12,8%).

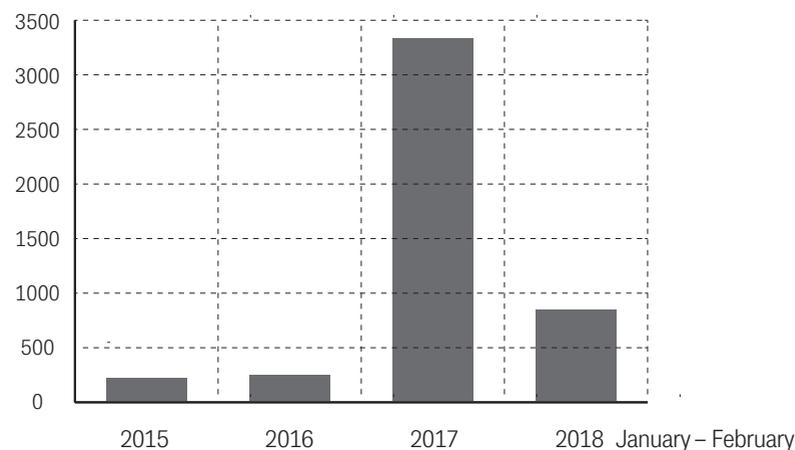
Year-by-year rate



REFERENCE TO CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS, OTHER REGIONAL AND INTERNATIONAL STANDARDS

39.6% of court decisions referred to case-law of the European Court of Human Rights (4691 decisions of a total number of 11835). This number includes 225 judgments in 2015, 250 – in 2016, 3340 – in 2017, 849 – in January and February of 2018. The numbers indicate at the increase of number of decisions which refer to the case-law of the European Court of Human Rights.

Reference to case-law of the European Court of Human Rights, other regional and international standards



Rights to social protection including the right to social aid and pension

Most of the cases have to do with these issues. People often go for a law to litigate against departments of the Pension Fund of Ukraine because of suspension of pension payments. The reasons for the suspension might be different: cancellation of IDP certificate, impossibility to verify the fact of residence at the area, which is outside government control, etc. It is worth noting that in most cases the courts refer to case-law of the European Court of Human Rights (Pichkur v. Ukraine, no. 10441/06, 7 November 2013; Ilaşcu and others v. Moldova and Russia, no. 48787/99, 8 July 2004). A few examples are described below.

In one of the cases a person filed a lawsuit against a department of the Pension Fund of Ukraine because of suspension of pension payments caused by the fact that he hadn't proved his actual place of residence to be the same as his registered address. The Pension Fund department in the situations like this refers to a certificate that confirms the status of a person who was displaced from the occupied territory of Ukraine and the area of anti-terrorist operation.

Based upon the regulations of Article 12 of the Law of Ukraine "On ensuring of rights and freedoms of internally displaced persons" and Article 7-1 of the Enactment of the Cabinet of Ministers of Ukraine "On the registration of internally displaced persons" the Pension Fund department verified the information on the internally displaced persons registered at the department with the related registers of a Social security department. As a result, the actual place of residence of an applicant was not confirmed and it did not correspond to the address at the IDP certificate. For that reason, pension was suspended since the applicant did not prove correspondence of his actual and registered place of residence.

The court satisfied the claims of the plaintiff for illegality of the Pension Fund actions based upon the following arguments.

In accordance with Article 47 of the Law of Ukraine “On mandatory state pension insurance” pension is to be issued monthly until day 25 of the current month exclusively in monetary form by the institutions that issue and deliver pensions, at the place of residence of a pensioner within the territory of Ukraine or transferred to a bank account determined by this person in compliance with the legislation. The Law of Ukraine “On Pension Provision” has established the same regulations.

In Accordance with Article 11 of the Enactment of the Cabinet of Ministers of Ukraine, No. 637 of November 5, 2014 “On the issuing of social aid to internally displaced persons”, assignment and continued payment of pensions (monthly lifetime retention), life-time state scholarships, all kinds of social assistance and aid, provision of social services, subsidies and privileges at the expense of the national budget and funds of mandatory social insurance for internally displaced persons are issued at the place of registration of such persons, which is to be validated by a certificate issued in compliance with the Procedure of registration and issuance of a certificate on the registration of a internally displaced person (the Enactment of the Cabinet of Ministers of Ukraine, No. 509 of October 5, 2014).

In accordance with Article 7 of the Law of Ukraine “On the procedure of registration and issuance of a certificate on the registration of internally displaced persons” a person who has been registered as an IDP will exercise its right to employment, pension provision, mandatory social insurance in case of retirement or disablement according to the regulations established by legislative acts.

Ukraine takes proper measures to resolve the issues of social status, social assistance to restore necessary grants to internally displaced persons. A person of retirement age, a disabled adult or a child, who obtained IDP status and yet remain in difficult life conditions, all have the right to social services in compliance with the legislation at the place of their residence.

In accordance with Article 1 § 1 of the Law of Ukraine “On amendments to the laws of Ukraine to secure the upholding of rights and freedoms of internally displaced persons” an IDP certificate no longer certifies the place of residence of a person. At the same time, the IDP certificate issued to the plaintiff is still valid under the regulations of Article 4 § 1 of the Law of Ukraine “On

ensuring of rights and freedoms of internally displaced persons”, which mean that an IDP certificate has no validity period, thus it is permanent unless the other rule is established by legislation.

The Pension Fund department notified the applicant that the pension was suspended and it could not have been restored unless he proved correspondence of his actual and registered place of residence. The department officials claim that they went to verify the applicant’s place of residence twice but failed to make sure that he actually lived there. As a result, the applicant was considered to be residing away from the place specified in his IDP certificate.

In the judgment the court reiterates that applicant’s absence at the place of residence exactly at the time the Pension Fund employees came there does not prove that he has never dwelled there. Obviously, no person is obliged to permanently stay at the registered place of residence.

The court emphasizes that paragraph 1 of Article 12 of the Law has limited the list of reasons to invalidate an IDP certificate, that are: 1) applicant’s request; 2) applicant committed a crime: action aimed at forceful change or overthrow of the constitutional order or take-over of government; trespass against territorial integrity and inviolability of Ukraine; act of terrorism; involvement in a terrorist act; public incitement to commit a terrorist act; creation of a terrorist group or terrorist organization; facilitate the commission of a terrorist act; financing of terrorism; genocide; criminal offences against mankind, military offences; 3) applicant’s return to an abandoned place of permanent residence; 4) applicant’s emigration; 5) applicant submitted untrue information to obtain IDP status. There are no other reasons in the list.

In the case of *Pichkur v. Ukraine* the European Court of Human Rights stated that “the rise in population mobility, higher levels of international cooperation and integration, and developments in the banking-services and information-technology sectors no longer justified technically motivated restrictions in respect of beneficiaries of social-security payments ...” (Article 53). The Court also concluded in Article 54 of the judgment about the breach of Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“The enjoyment of the rights and freedoms shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth of other status”) taken in conjunction with Article 1 of Protocol No. 1 (“Every natural or legal person is

entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”).

In clause 19 of the Resolution of the Plenum of the Supreme Court of Ukraine the court concluded that in accordance with Articles 8 and 22 of the Constitution of Ukraine laws and other regulations which cancel constitutional rights and freedoms of an individual as well as new laws which reduce substance and volume of rights and freedoms established by the Constitution and laws of Ukraine shall never be invoked. The courts ought to be governed by the Constitution of Ukraine as a fundamental law upon considering the validity of other laws and regulatory acts.

Based on the foresaid the court concluded that the plaintiff properly pled for restoration of his rights and therefore the claims were satisfied¹.

In another case the pension payments were terminated after the Pension Fund department was informed by the State Border Guard Service of Ukraine that the applicant had exited towards “the Luhansk people’s republic” from the area which was under government control and never returned back. The court concluded that the actions of the Pension Fund were illegitimate based on the following:

“...payments of pension were suspended without any particular decision, just after the State Border Guard Service of Ukraine informed the Pension Fund about the applicant’s exit to “the Luhansk people’s republic” through the checkpoint with no record of her return, thus she was considered to reside outside of the locality specified in her IDP certificate. The defendant relied on Article 7 of the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons” which provide that the absence of an internally displaced person at the registered place of residence is a breach of a mandatory requirement to receive social-security payments.”

1 Judgment of the Kharkiv Regional Dergachi district court, July, 13, 2016 (<http://reyestr.court.gov.ua/Review/59118950/>). Similar case and same conclusions of the court: Judgment of the Luhansk Regional Bilovodsk district court, February, 7, 2018 (<http://reyestr.court.gov.ua/Review/72145678>).

...In accordance with Article 41 § 1 of the Constitution of Ukraine everyone has the right to own, use and dispose of his or her property. Article 7 § 1 (clause 7) of the Constitution provides that the legal regime of property is determined exclusively by laws of Ukraine.

... the Court states that termination of monthly payments of pension which were previously assigned to him for life by pension fund is considered as depriving the plaintiff of his property (ownership) in the form of a legal claim for payments of funds which were previously assigned to him for life and which he expected to receive.

... Whereas international treaties in force, consented by the Verkhovna Rada of Ukraine as binding, shall be an integral part of the national legislation of Ukraine (Article 9 § 1 of the Constitution of Ukraine) the court applies the regulations of Article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms which guarantees protection of the ownership in conjunction with Article 32 § 1 of the Convention which provides that the jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the Protocols. The court considers that in accordance with Article 1 of Protocol No. 1 to the Convention and practice of the European Court of Human Rights (Prince Hans-Adam II of Liechtenstein v. Germany, no. 42527/98, § 83; Kechko v. Ukraine, no. 63134/00, § 22; Suk v. Ukraine, no. 10972/05, § 20-24; Pichkur v Ukraine, no. 10441/06, § 41; Sukhanov and Ilchenko v. Ukraine, no. 68385/10, § 31) every individual and legal entity shall be guaranteed the right to peacefully own their property which includes property rights (along with legal claim for satisfaction of debt) and interests which include so-called legitimate expectations.

Therefore, based on the Convention and taking into account that the issuer of a pension, its recipient, the amount, terms and period of its payments at the time of the dispute between the parties were determined, and there was no dispute between the parties on this matter, the court considers a monthly pension of the plaintiff, which he should receive every month and for a lifetime, a property within the meaning of Protocol No. 1 of Article 1 of to the Convention, and therefore applies the regulations of this article.

Under the provisions of Article 1 of Protocol No. 1, no one may be deprived of his property except in the interests of society and under the conditions provided by law and the general principles of international law. However, the

foregoing provisions shall in no way restrict the right of the state to enact such laws as it deems necessary to exercise control over the use of property in accordance with common interests or to secure the payment of taxes or other duties or fines.

Consequently, the right to peaceful possession of the property is not absolute, it may be limited or subjected to other interference by the state, that is the person may be deprived of his property.

However, the practice of the European Court of Human Rights (Sporrong and Lonnroth v Sweden, no. 7152/75, 23 September 1982; James and others v. the United Kingdom, no. 8793/79, 21 February 1986; Shchokin v. Ukraine, no. 23759/03, 14 October 2010; Serkov v. Ukraine, no. 39766/05, 7 July, 2011; the Former King of Greece and others v. Greece, no. 25701/94, 23 November 2000; Bulves AD v. Bulgaria, no. 3991/03, 22 January 2009; Tregubenko v. Ukraine, no. 61333/00, 2 November 2004; East/West Alliance Limited v. Ukraine, no. 19336/04, 23 January 2014) has shown that the state's interference with the right of a person to peacefully own his property will be compatible with the guarantees of Article 1 of Protocol No. 1 to the Convention only if the state complies with three obligatory conditions, such as:

- the legality of the interference (in other words, grounds for limiting or depriving of property should be provided by law). The Court further reiterates that the word "law" covers not only statute but also common law (Tolstoy-Miloslavsky v. the United Kingdom, no. 18139/91, § 37, 13 July 1995);
- the interference shall purpose legitimate aim: public or social interests;
- the interference with the right of a person to peacefully own his property shall be proportional to the objective (in other words, "fair balance" must be ensured between social interests and obligation to protect the fundamental right of a person, Sukhanov and Ilchenko v. Ukraine, no. 68385/10, § 53).

To properly estimate the defendant's action to interfere with the rights of the plaintiff by suspending his pension the court considers the following.

In accordance with Article 46 § 1 citizens have the right to social protection also in old age. At the same time the fundamentals or social protection are determined exclusively by the laws of Ukraine.

In accordance with Article 4 of the Basic Law of Ukraine on the mandatory state social insurance, the retirement insurance is one of insurance types.

Legal relationships, which originate from this type of insurance, are regulated by laws adopted in compliance with this Basic Law.

Yet the regulations of Article 27 § 1 of the Basic Law provide that payments and other social aid, which the insured person is entitled to, can be suspended only in the following cases:

- a) payments were assigned against the documents which included false information;
- b) insured accident was caused by a criminal act of a person;
- c) insured accident was caused by a deliberate act of a person;
- d) insured person did not comply with his duties of the mandatory state social insurance;
- e) in other cases provided by laws.

Thus, the Basic Law of Ukraine on the mandatory state social insurance does not provide a full list of reasons for suspending such insurance payments as pension, however reasons for that can be provided by other laws.

By the time the plaintiff had her payment terminated, the Law of Ukraine "On mandatory state pension insurance" current as of July 6, 2017 provided that regional departments of the Pension Fund of Ukraine or a court could have resolved to terminate payments of pension in the following cases: 1) pension was assigned against documents which included false information; 2) a retired person left for abroad for permanent residence unless the other is regulated by international treaties of Ukraine consented by the Verkhovna Rada of Ukraine as binding; 3) death of a retired person; 4) a retired person did not receive payments for 6 months in a row; 5) in other cases provided by laws.

The court concluded that special law did not provide a full list of reasons for suspending payments of pension though it clearly stated that those reasons could have been regulated only by the law.

It is worth mentioning that the court emphasized on the fact that pension could have been terminated not only in any cases provided by laws but as well according to the resolution issued by the regional department of the Pension Fund of Ukraine.

"... There was neither a resolution on suspension of plaintiff's pension nor a court decision on that matter. Payments of pension were terminated not according to a decision but because of the information of the State Border Guard

Service of Ukraine about the applicant's exit from the city of Rubizhne to a locality at the area of anti-terrorist operation which was outside government control with no record of her return.

Based on the regulations mentioned above, the court considers that the suspension of pension to the plaintiff was not committed in the manner prescribed by the law of Ukraine, and in conjunction with Article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms there was interference with the plaintiff's property and such interference was not "lawful"².

Some of the courts base their decisions on additional grounds:

"In accordance with the constitutional principles the state is obliged to guarantee the right of a person to receive pension assigned to him regardless of where that person resides."

Article 2 of the Law of Ukraine "On freedom of movement and free choice of place of residence in Ukraine" registration or failure to register the place of permanent or temporary residence of an individual cannot be the basis for the limitation, or a condition for the fulfilment, of those rights and freedoms that are guaranteed by the Constitution, Law or international treaties of Ukraine.

Article 3 of this Law provides that place of residence is an administrative unit at the area where an individual resides permanently or temporarily.

In accordance with Article 33 of the Constitution of Ukraine every person, legally staying in the territory of Ukraine shall be guaranteed freedom of movement and travel, free choice of place of residence, and the right to freely leave the territory of Ukraine, with the exception of restrictions stipulated by law.

The right to freedom of movement and residence within the borders of each state as an inalienable right of everyone is also enshrined in the Universal Declaration of Human Rights of 1948. This right, like other human rights and freedoms, is inalienable, inviolable and cannot be subject to any restrictions, in particular there can be no privileges or restrictions on grounds of place of residence.

² Judgment of the Luhask region Rubizhne city court, January, 12, 2018. // <http://reyestr.court.gov.ua/Review/71546702>.

Therefore, based on the above norms of legislation, legal and social nature of pension, the right of a person to get pension cannot depend on the fact of permanent residence (registration of residence), and the state is obliged to guarantee this right under constitutional principles regardless of where the person resides. The absence of the plaintiff at the place of residence cannot deprive him of the right to pension due to the implementation of procedures of registration of internally displaced persons.

In accordance with Article 1 of the Constitution of Ukraine, Ukraine is a law-based state. An individual, his life and health, honour and dignity, inviolability and security shall be recognised in Ukraine as the highest social value. (Article 3 of the Constitution of Ukraine)

In accordance with Article 8 of the Code of Administrative Legal Proceedings of Ukraine the court in deciding the case is governed by the principle of the supremacy of law, according to which a particular man, his rights and freedoms are recognized as the highest values and determine the content and orientation of the activities of the State.

"... the court deciding a case is guided by the principle of the supremacy of law, according to which, in particular, the person, his or her rights and freedoms are recognized as the highest value and determine the content and direction of activity of the state. The court applies the principle of supremacy of law in conjunction with the practice of the European Court of Human Rights. Application to an administrative court to protect the rights and freedoms of a person on the basis of the Constitution of Ukraine is guaranteed. Denial to investigate and resolve an administrative case on the grounds of incompleteness, ambiguity, divergence or lack of legislation for the controversial relationships is prohibited.

The court considers it possible to apply the case-law of the European Court of Human Rights to the controversial relationships as a source of law in accordance with Article 17 of the Law of Ukraine "On the enforcement and the application of the case-law of the European Court of Human Rights".

As stated by the European Court of Human Rights in the case of Pichkur v. Ukraine decision, which became final on February 7, 2014, the entitlement to the pension itself had been made dependent on the applicant's place of residence, resulting in a situation in which the applicant, having worked for many years in his country and having contributed to the pension scheme, had been

deprived of it altogether, on the sole ground that he no longer lived in Ukraine (§ 51). The foregoing considerations were sufficient to enable the ECHR to conclude that the difference in treatment complained of was in breach of Article 14 of the Convention (“The enjoyment of the rights and freedoms shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth of other status”) taken in conjunction with Article 1 of Protocol No. 1 (“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”).

In the judgment of July 8, 2004 (case of *Ilaşcu and others v. Moldova and Russia*) the European Court of Human Rights in satisfying the claims against Moldova, concluded that the Moldovan Government, the only legitimate government of the Republic of Moldova under international law, did not exercise authority over part of its territory, namely that part which is under the effective control of the “Moldovan Republic of Transdnistria”. However, even in the absence of effective control over the Transdnistrian region, Moldova still has a positive obligation under Article 1 of the Convention to take the diplomatic, economic, judicial or other measures that it is in its power to take and are in accordance with international law to secure to the applicants the rights guaranteed by the Convention.

In Article 333 of the judgment the ECHR considers that where a Contracting State is prevented from exercising its authority over the whole of its territory by a constraining *de facto* situation, such as obtains when a separatist regime is set up, whether or not this is accompanied by military occupation by another State, it does not thereby cease to have jurisdiction. The State in question must endeavour, with all the legal and diplomatic means available to it *vis-à-vis* foreign States and international organizations, to continue to guarantee the enjoyment of the rights and freedoms defined in the Convention³.

3 Judgment of Luhansk region Lisichansk city court, June, 6, 2017 // <http://reyestr.court.gov.ua/Review/67213863>.

There is another case that may be considered exemplary for judicial practice of Ukraine. Thus, a person of disability class 2 who had been paid a lifetime disability pension because of a casualty at Chernobyl NPP, in December 2014, moved from the temporarily occupied area to be later registered as an internally displaced person who moved from the area of anti-terrorist operation, which is outside government control.

By resolution of the Social security department of August 12, 2016, the IDP certificate was cancelled under the information of the State Border Guard Service of Ukraine about the applicant’s exit across the state boundary of Ukraine on June 5, 2016. In accordance with this resolution the payments of pension to the applicant were terminated. On October 10, 2016 he obtained a new IDP certificate and on October 11, 2016 applied for restoration of pension and social aid. According to the record of the commission’s meeting on October 19, 2016 the fact of applicant’s residence at the reported address was verified though he was denied to have his pension renewed. On December 6, 2016 the court recognized as illegal the commission’s resolution of October 19, 2016 on the denial of renewal of a pension and obliged to restore pension and social security payments provided by the Law of Ukraine “On status and social protection of people suffering from Chernobyl disaster”.

In the satisfaction of the court decision the applicant’s pension was restored from October 1, 2016. However, he did not receive pension for the period of July 1, 2016 till September 30, 2016, which was the reason for a plaintiff to apply for the related payments again. By satisfying the plaintiff’s claims the court proceeded from the fact that pension payments can be terminated only under resolution of a pension fund department based on regulations of Article 49 of the Law of Ukraine “On mandatory state pension insurance”. The certificate of internally displaced person was cancelled because the applicant exited through the checkpoint “Hoptivka” on June 5, 2016.

Nevertheless, this fact cannot be considered as a competent evidence of his return to the abandoned place of residence at Luhansk or departure abroad for a permanent stay as regulated by Article 12 §§ 3 and 4 of the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons”. Under such circumstances the court concluded that cancellation of the IDP certificate without clarification of his actual place of residence was untimely and it caused groundless termination of pension payments. The Pension Fund department

did not provide proper proof which could have motivate lawfulness of their denial to suspend plaintiff's pension for the period of July 1, 2016 till September 30, 2016.

The court also relied on case-law of the European Court of Human Rights. In its judgment the Court refers to Article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms (right to an effective remedy): everyone whose rights and freedoms are set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity. An effective remedy shall provide restoration of the violated right while being adequate to the circumstances⁴.

The courts also refer to Article 92 § 1 of the Constitution of Ukraine which provides that the following matters shall be determined exclusively by laws of Ukraine: human and citizen rights and freedoms, the guarantees of these rights and freedoms; the main duties of the citizen; the fundamentals of social protection, the forms and types of pension. The Law of Ukraine "On mandatory state pension insurance" does not have any clause that pension can be suspended by a pension fund department for failure to verify the fact of residence of a person at the definite address.

As an additional ground for a judgment the court refers to the judgment of the European Court of Human Rights in the case of Pichkur v. Ukraine (§51). The ECHR states that entitlement to the pension itself had been made dependent on the applicant's place of residence, resulting in a situation in which the applicant, having worked for many years in his country and having contributed to the pension scheme, had been deprived of it altogether, on the sole ground that he no longer lived in Ukraine. The foregoing considerations are sufficient to enable the Court to conclude that the difference in treatment complained of was in breach of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 (§54)⁵.

4 Ruling of the Vinnitsa appellate administrative court of May, 25, 2017, case no. 688/219/17 // <http://www.reyestr.court.gov.ua/Review/66789519>.

5 Ruling of the Kharkiv appellate administrative court of February, 16, 2017, case no. 641/9827/16-a // <http://www.reyestr.court.gov.ua/Review/64859826>.

Many decisions of the courts on similar matters refer to Article 24 of the Constitution of Ukraine which provides that citizens shall have equal constitutional rights and freedoms and shall be equal before the law. There shall be no privileges or restrictions based on race, skin colour, political, religious, and other beliefs, gender, ethnic and social origin, property status, place of residence, linguistic or other characteristics. In accordance with Article 1 of Protocol No. 1 to the Convention every natural or legal person is entitled to the peaceful enjoyment of his possessions. Deprivation of property is only permitted if it is lawful; in the public interest; in accordance with the general principles of international law. In accordance with Article 14 of the Convention the enjoyment of the rights and freedoms he judgment of the European Court of Human Rights in the case of Ilaşcu and others v. Moldova and Russia, in which the ECHR indicates that the government bears the obligation to secure the rights and freedoms set out in the Convention notwithstanding of the lack of effective control of an area within its national territory. By terminating the plaintiff's pension after cancelling his IDP certificate the defendant relied on the Procedure of registration and issuance of a certificate on the registration of an internally displaced person (the Enactment of the Cabinet of Ministers of Ukraine, No. 509 of October 5, 2014) which was not a law. The court reiterates that in this case the status of an internally displaced person creates additional obstacles for a person (as opposed to other citizens) to receive pension which was assigned to him due to his labor activity. It requires extra efforts for a retired person to commit actions beyond the legislation on the provision of pensions. On this ground the court interprets the actions of a defendant as a discrimination against the plaintiff being an internally displaced person and failure to set up unified approach to the provision of pensions for the citizens of Ukraine in accordance to the law⁶.

In general, this approach reflects the practice of the Higher Administrative Court of Ukraine⁷. However, it has not been established in the

6 Judgment of the Donetsk regional Dmytriv city court of May, 24, 2017, case no. 226/434/17 // <http://www.reyestr.court.gov.ua/Review/66795083>.

7 Rulings of the Higher Administrative Court of Ukraine, July, 3, 2017, case no. K/800/22076/17 // <http://www.reyestr.court.gov.ua/Review/67619194>; February, 28, 2017, case no. K/800/30599/16 // <http://www.reyestr.court.gov.ua/Review/65163219>, April, 6, 2017, case no. K/800/10923/17 // <http://www.reyestr.court.gov.ua/Review/65967428>.

judicial practice of Ukraine. Most of the court decisions are based on conclusions that the enjoyment of the right to a pension is related to the fact of registration of a pensioner as an internally displaced person, which must be confirmed by the relevant certificate of registration of an internally displaced person. Article. 49, of the Law of Ukraine “On mandatory state pension insurance” provides that termination of the pension payments under the decisions of pension fund departments or court judgments can be committed only in the cases regulated by laws. Thus, the courts conclude that by terminating pension for the persons who did not obtain IDP certificate the defendants acted lawfully, within the limits of their competence and authority, just in accordance with the article 19 of the Constitution of Ukraine⁸.

Same legal approach is represented in the Judgment of the Supreme Court of Ukraine (case no. 6-51ц17, April 12, 2017) which stated that social security payments could not be issued without a valid IDP certificate. Herein the Supreme Court of Ukraine proceeds from the guarantees provided by laws to the people who suffered from the accident at work and moved from temporarily occupied territory or area of anti-terrorist operation. Their rights are entirely protected by the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons”, enactment of Cabinet of ministers of Ukraine, other acts of legislation.

Legislative acts also provide that financing of the expenses of funds of mandatory state insurance at the area which is outside government control will be possible only after regaining control over those territories. Hence, no legislative act on insurance payments, social services issued at the time of an armed conflict, temporary occupation, manifestation of massive violence, mass abuse of human rights, environmental or technogeneous contingencies does not provide issuing of insurance payments to the victims who stayed at the area which is outside government control⁹.

8 Ruling of the Donetsk appellate administrative court, July 18, 2017, case no. 235/1087/17 // <http://www.reyestr.court.gov.ua/Review/67805042>.

9 Judgment of the Supreme Court of Ukraine, April, 12, 2017, case no. 6-51ц17 // <http://www.reyestr.court.gov.ua/Review/66300990>.

In similar cases the courts always refer to case-law of the European Court of Human Rights and particularly Article 1 of Protocol No. 1 (“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”). However, the regulations of the Ukrainian legislation empower the state to pass laws which are indispensable to exercise control over possession of property in accordance with general interests or for the purpose of paying taxes and fines. Therefore, the courts conclude that “in this case the Pension Fund acted lawfully suspending social security payments which are considered as property from the standpoint of the ECHR”¹⁰.

For the most part the contradictory practice of courts is typical for the cases when a person was registered as an internally displaced person, acquired the right to social security at his (her) new place of residence but later payments were terminated (because of false information on the place of their residence, departure outside the area which was under government control, etc.). In those cases certain courts recognize termination of payments as unlawful but the others conclude that such termination comes into breach with the national legislation. The courts, however, dismiss cases originated by applicants who never left the area, which was outside government control, or never obtained IDP status. This practice is steady. The argument is that such people cannot be considered as internally displaced persons and therefore the regulations of the Law of Ukraine “On ensuring the rights and freedoms of internally displaced persons” have no effect on them¹¹; persons from localities at the area, which is outside government control, acquire the right to receive insurance payments provided they moved to the territory, which is under government control and obtained certificate of an internally displaced person at

10 Judgment of the Donetsk appellate administrative court, July 18, 2017, case no. 235/1087/17 // <http://www.reyestr.court.gov.ua/Review/67805042>.

11 Judgment of the Donetsk regional appellate court of May, 30, 2017, case no. 225/5733/16-ц // <http://www.reyestr.court.gov.ua/Review/66823078>, ruling of the Donetsk regional appellate court of February, 7, 2017, case no. 243/6042/16-ц // <http://www.reyestr.court.gov.ua/Review/64585146>.

the local Social security division¹²; the state keeps charging the respective insurance amounts but remains unable to transfer them to the bank accounts of citizens residing at the area which is outside government control because of non-functional banking system out there¹³.

In this category of cases there have been particular decisions which refer to case-law of the European Court of Human Rights to justify the demand for upholding of the rights of IDPs.

Thus, in one of the cases about suspension of pension due to failure to verify the IDP's residence where he was registered the court stated in the decision: "... As the European Court of Human Rights concluded in the judgment on the case of Pichkur v. Ukraine the entitlement to the pension itself had been made dependent on the applicant's place of residence, resulting in a situation in which the applicant, having worked for many years in his country and having contributed to the pension scheme, had been deprived of it altogether, on the sole ground that he no longer lived in Ukraine (§ 51). The foregoing considerations were sufficient to enable the ECHR to conclude that the difference in treatment complained of was in breach of Article 14 of the Convention ("The enjoyment of the rights and freedoms shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth of other status") taken in conjunction with Article 1 of Protocol No. 1 ("Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.")".

In the judgment of July 8, 2004 (case of Ilaşcu and others v. Moldova and Russia) the European Court of Human Rights in satisfying the claims against Moldova concluded that the Moldovan Government, the only legitimate government of the Republic of Moldova under international law, did not exercise

12 Ruling of the Donetsk regional appellate court of February, 21, 2017, case no. 243/8455/16-ц // <http://www.reyestr.court.gov.ua/Review/64851933>.

13 Judgment of the Donetsk regional appellate court of April, 12, 2017, case no. 242/2136/16-ц // <http://www.reyestr.court.gov.ua/Review/65961283>.

authority over part of its territory, namely that part which is under the effective control of the "Moldovan Republic of Transdnistria". However, even in the absence of effective control over the Transdnistrian region, Moldova still has a positive obligation under Article 1 of the Convention to take the diplomatic, economic, judicial or other measures that it is in its power to take and are in accordance with international law to secure to the applicants the rights guaranteed by the Convention.

Since the final judgment of the ECHR in any case shall be a case-law and abided by Ukraine in accordance with Article 46 of the Convention, the courts must refer to the practice of the ECHR when deciding a case.

The Verkhovna Rada of Ukraine can amend the law solely by law, it cannot be done by adopting a by-law act. The enactments of the Cabinet of Ministers of Ukraine are by-law acts.

The enactments of the Cabinet of Ministers of Ukraine, to which the defendant refer, are not laws, and therefore these by-law acts cannot reduce the measure of rights established by regulatory acts of a higher legal effect.

... By establishing at the constitutional level the right to social protection of every citizen, without any exceptions, the state implements the provisions of Article 24 of the Constitution of Ukraine, according to which citizens shall have equal constitutional rights and freedoms and shall be equal before the law; there shall be no privileges or restrictions based on race, skin colour, political, religious, and other beliefs, gender, ethnic and social origin, property status, place of residence, linguistic or other characteristics.

Based on the constitutional principles the state is liable to guarantee the right of a citizen to receive his pension, regardless of the place where the person resides.

The above mentioned proves that clause 2 of the Procedure of financing of budget institutions, issuing of social security payments to the citizens and provision of financial support to business and organizations of the Donetsk and Luhansk regions does not make for exercising of liability of state to provide the applicants with an adequate pension, other kinds of social assistance at least at the level of subsistence minimum established by law. Otherwise this clause interferes with it.

...Thus, by terminating payments of pension to the applicant without any lawful reason, the defendant violated his right to receiving pension. At the

same time the right to pension is subject to protect in accordance with Article 1 of Protocol No. 1 and it concerns the right of a person to peacefully possess his (her) property (Muller v. Austria, no. 28034/04, 5 October 2006).

Based upon the facts ascertained during the investigation and in accordance with the practice of the European court of human rights (Pichkur v. Ukraine, no. 10441/06, 7 November 2013; Ilaşcu and others v. Moldova and Russia, no. 48787/99, 8 July 2004) the court concludes that the defendant's actions to terminate the applicant's pension were in the breach with the law, therefore inaction of the Donetsk regional department of the Pension fund of Ukraine is recognized as unlawful¹⁴.

In another case the court deciding on denial to issue child benefits stated: "The Law of Ukraine "On state assistance to families with children" does not provide any grounds for the defendant to deny to assign child benefits to the plaintiff based on the resolution of the municipality on the procedure for assignment of social benefits or on the fact that the applicant is absent at his actual place of residence. The Enactment of the Cabinet of Ministers of Ukraine "On the issuing of social aid to internally displaced persons", which is the argument for the defendant, is not a law and cannot reduce the measure of rights of a person provided by primary acts of legislation.

The plaintiff and his child are citizens of Ukraine; they have the same constitutional rights as other citizens of Ukraine and cannot be restricted in the right to social protection on the basis of place of residence. He claims that his absence at the place of permanent residence cannot be the reason for denial to assign child benefits since this right is provided by the law. Inability of state to bear its social liabilities towards individuals creates unequal conditions for citizens, which reduces trust to the state and violates the principles of a social-oriented constitutional state. Such liabilities of a state are provided by Article 12 of the European Social Charter ratified by the Law of Ukraine No. 137-V of September 9, 2006. In accordance with the Charter the state is to maintain the social security system at a satisfactory level; to endeavour to raise progres-

14 Judgment of the Donetsk regional Artemivsk district court of June, 6, 2017, case no. 219/3536/17 // <http://www.reyestr.court.gov.ua/Review/67308109>. Ruling of the Donetsk appellate administrative court, May, 17, 2017 case no. 219/11573/16-a // <http://www.reyestr.court.gov.ua/Review/66532373>.

sively the system of social security to a higher level. Therefore, the plaintiff's right to social security is indisputable and it must be ensured by state. In this case the courts of original and appellate jurisdiction came to the same conclusions, based on the judgment of the European Court of Human Rights in the case of Ilaşcu and others v. Moldova and Russia: even in the absence of effective control over a part of its area the government still has a positive obligation under Article 1 of the Convention to take the diplomatic, economic, judicial or other measures that it is in its power to take and are in accordance with international law to secure to the applicants the rights guaranteed by the Convention. Moreover, in accordance with Article 92 § 1 of the Constitution of the Ukraine the human and citizen rights and freedoms, the guarantees of these rights and freedoms shall be determined exclusively by laws of Ukraine which are adopted on the basis of the Constitution and must correspond to it. Accordingly, the court considers that the defendant's decision, based on by-law, to refuse to assign child benefits is unlawful as it violates the defendant's rights to social protection.

In accordance with Article 33 of the Constitution of Ukraine every person, legally staying in the territory of Ukraine, shall be guaranteed freedom of movement and travel, free choice of place of residence, and the right to freely leave the territory of Ukraine, with the exception of restrictions stipulated by law. The right to freedom of movement and free choice of place of residence with the state boundaries as an inalienable right of an individual is inviolable and cannot be restricted. There shall be no privileges or restrictions based on place of residence. In this regard if the applicant does not reside at the registered place of residence he cannot be deprived of child benefits because of failure to comply with rules of registration of internally displaced persons¹⁵.

Imperfection of legislative norms is a significantly negative factor for internally displaced persons in enjoyment of their rights. Thereupon one of the applicants had to assert her rights in the courts of three different jurisdictions. Being a citizen of Georgia she arrived in Ukraine in 1994, registered and resided at Gorlivka of the Donetsk region. Because of the anti-terrorist operation in

15 Ruling of the Donetsk appellate administrative court of June, 13, 2017, case no. 226/79/17 // <http://www.reyestr.court.gov.ua/Review/67123590>.

the Donetsk and Luhansk regions in July 2014, she moved with her under-age son to city of Lubny in the Poltava region.

The procedure of registering as an internally displaced person (issuing an IDP certificate) and assignment of social security payments to cover the cost of living, including the housing and communal expenses, by the time of her application was regulated by by-laws. In early days of the armed conflict the right to obtain status of an internally displaced person and receive monthly social assistance could have been granted to not only citizens of Ukraine, but also to foreigners and stateless persons who permanently resided in Ukraine. But in accordance with Article 1 of the Law of Ukraine “On ensuring the rights and freedoms of internally displaced persons”, which came into force on November 22, 2014, an internally displaced person is a citizen of Ukraine, a foreigner or a stateless person, 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, manifestation of massive violence, mass abuse of human rights, environmental or technogenic contingencies. Later the amendments to the mentioned law (No. 921-VIII, December 24, 2015) provided that an internally displaced person is a citizen of Ukraine, a foreigner or a stateless person, who legally stays in Ukraine and has a permanent place of residence 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, manifestation of massive violence, mass abuse of human rights, environmental or technogenic contingencies. Therefore, the courts accepted the claims and recognized the plaintiff’s right to receive monthly social security payments as benefits assigned to an internally displaced person, to cover the cost of living, including the housing and communal expenses¹⁶.

One of the most actual problems is lack of correspondence between by-laws and laws, amendments to laws. There is a typical case in which such problem was the factor. The applicant applied to the defendant for registering as an internally displaced person because he had been compelled to change his place of

16 Ruling of the The Supreme Administrative Court of June 7, 2017 || <http://www.reyestr.court.gov.ua/Review/67093035/>

residence. His birthplace is the city of Rovenki of the Luhansk region, as recorded at his passport. His vocational school diploma and military card prove that he resided in the Luhansk region. Till summer 2011 he lived with his family in Dnipropetrovsk but later returned back to Rovenki. There his daughter was born and thereafter they were granted a “large family” status, which was certified by the reference issued by the Rovenki executive committee on November 21, 2012. On May 3, 2012 the plaintiff got a job at the Rovenki Concentrating Plant and worked there until it shut down on August 1, 2014. After that, the family decided to move to another region while the anti-terrorist operation was underway. On September 17, 2014 the plaintiff and his family move to Dnipropetrovsk.

On February 2, 2016 the plaintiff received a written response from the defendant about a denial to register him as an internally displaced person. Reasoning from this fact, the plaintiff claimed that the defendant’s actions had been illegal.

The defendant objected all claims explaining that the Cabinet of Ministers of Ukraine did not bring its enactments into compliance with the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons” and therefore the Social security department had no reason to register the plaintiff as an IDP.

In accordance with Article 4 § 7 of the Law, in case the residence registration check is missing in the ID documents issued by authorities at the previous place of residence of a person, the applicant is liable to prove the fact of his previous residence at the area from where he was compelled to move under circumstances provided by Article 1 of the Law: military card, employment history, ownership certificate (for real estate and movables, education (secondary, vocational, higher, scientific degree) certificates, reference of an educational institution which certifies the fact of training, municipal resolution on adaptation of a child to a children’s home, custody documents, medical records, photos, videos, etc.).

The fact of plaintiff’s residence at Rovenki of the Luhansk region at the time when anti-terrorist operation commenced could be proven by birth certificate of his youngest daughter issued on August 8, 2012 by the Rovenki registrar’s office, “Large family” certificate issued by the Rovenki municipal government, employment history which certified his employment at the Rovenki Concentrating plant on May 3, 2015.

The court overrules objections of the defendant who explains that the applicant was not eligible for IDP status before the amendments to the Enactment no. 509 “On the registration of internally displaced persons” came into force on October 1, 2014. The court hereby reiterates that the enactments of the Cabinet of Ministers of Ukraine are secondary legislative acts towards the laws which are the superior acts and must be applied instead. Thus, in that controversial situation the defendant should have applied the regulations of the Law of Ukraine “On ensuring the rights and freedoms of internally displaced persons”.

Lack of specific regulations for the procedures of implementation of the legitimate rights of people cannot be the reason for denial to ensure social protection for the plaintiff in accordance with the Laws of Ukraine, therefore the court concludes that the plaintiff as a person who was compelled to move from the area of an armed conflict, which was outside government control, should not have been deprived of his right to obtain IDP status in accordance with the Law of Ukraine “On ensuring the rights and freedoms of internally displaced persons”¹⁷.

There is another similar case. Due to the regulations of the Enactment of the Cabinet of Ministers of Ukraine no. 505 of October 1, 2014 “On monthly social assistance to internally displaced persons to cover the cost of housing, including and communal expenses”, the applicant received social assistance of 442 UAH/14 EUR monthly, assigned to him for the period of November 3, 2015 till May 2, 2016. However, on March 21, 2016 the defendant suspended payments of social assistance based on the fact that the certificate of an internally displaced person was no longer valid. Given that the actions of the defendant were illegal because the Law of Ukraine “On ensuring the rights and freedoms of internally displaced persons” already established permanent validity for all IDP certificates at the time the validity term of the applicant’s IDP certificate was considered to be over he filed a lawsuit claiming for cancellation of the resolution of the Social security department. The defendant objected to the claims as he considered that he had acted legally under procedure established

17 <http://www.reyestr.court.gov.ua/Review/57410412>; also <http://www.reyestr.court.gov.ua/Review/59813548>.

by the Enactment No. 505 of October 1, 2014 and the Law of Ukraine “On ensuring the rights and freedoms of internally displaced persons” current as of January 13, 2016. Amendments to the Law provide that certificate of internally displaced person has an unlimited validity term. Accordingly, by the time the validity term of the applicant’s certificate was over (March 21, 2016) the Law already established to rule of termless IDP certificate¹⁸. Nevertheless, the court concluded that defendant’s actions of suspending payments were legal because social assistance is assigned for a six-month term, and a person must apply to a Social security department or an issuing bank to have it assigned for a next period. Payments are suspended, given that a person does not apply¹⁹. This case illustrates inconsistency of legal regulations, which can be often interpreted in different ways.

There is another problem that concern the IDPs who apply for social security payments – the companies which provide paid sick leave for them as employees remained at the area which is outside government control. In one of the cases, as a result of gunfire at the area of anti-terrorist operation, on August 08, 2014 the applicant was wounded by a gunshot while working in the mine. She was receiving medical treatment until April 16, 2015. On April 7, 2015 he was classified disabled of class 3. The company where she worked before receiving a gunshot wound remained at the area, which is outside government control. At her application for sickness benefits she was informed that the company, where she was employed, was not re-registered at the territory, which is under government control. In accordance with the Procedures of assignment, recalculation and issuing of insurance payments against sick lists such payments could be issued only after regaining control over the area where the company-insurer is registered or in case the recipient of payments moves to the area, which is under government control. The division of the Executive directorate of the Ukraine Social Insurance Fund against accidents at work and occupational diseases mentioned that they were not empowered in accordance with the legislation to issue sickness benefits directly to the insured person.

18 <http://www.reyestr.court.gov.ua/Review/65024253>.

19 <http://www.reyestr.court.gov.ua/Review/66136011>.

In this case the court referred to the judgment of the European Court of Human Rights in the case of *Ilaşcu and others v. Moldova and Russia*. The ECHR, in satisfying the claims against Moldova, concluded that the Moldovan Government, the only legitimate government of the Republic of Moldova under international law, did not exercise authority over part of its territory, namely that part which is under the effective control of the “Moldovan Republic of Transdnistria”. However, even in the absence of effective control over the Transdnistrian region, Moldova still has a positive obligation under Article 1 of the Convention to take the diplomatic, economic, judicial or other measures that it is in its power to take and are in accordance with international law to secure to the applicants the rights guaranteed by the Convention. The disputed matters shall be regulated by the norms of Article 1 of the Protocol No. 1 to the Convention which provide that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”). However, the regulations of the Ukrainian legislation empower the state to pass laws which are indispensable to exercise control over possession of property in accordance with general interests or for the purpose of paying taxes and fines²⁰.

It should also be noted that governmental institutions sometimes reject social security claims due to the fact that they do not have access to the necessary documents that remained at the area which is outside government control. In one of the cases the applicant filed a lawsuit because he was denied burial assistance. The court ascertained that the applicant and the person who died were both registered as internally displaced persons. The applicant’s claim for burial assistance was rejected because the defendant had no pension files on the person who had died. The defendant acknowledged the right of the applicant to receive burial assistance but objected to the claims for redemption of underpaid pension since it had been properly paid according to the case papers. The court concluded that the denial to pay burial assistance was illegal²¹.

20 Ruling of the Kharkiv regional appellate court of April, 24, 2017, case no. 636/2558/16-ц // <http://www.reyestr.court.gov.ua/Review/66267294>.

21 Judgment of the Zakarpattia regional Berehove district court of March 4, 2016, case no. 297/96/16-a // <http://www.reyestr.court.gov.ua/Review/56322364>.

Enjoyment of the rights of IDPs can sometimes be restricted because of formalist approach of the courts in applying legislation. In another case, the plaintiff stated that she was an internally displaced person who had previously resided in the Autonomous Republic of Crimea. On February 20, 2014 the Russian military intervention started with the occupation of the Crimea. On June 11, 2014 she gave birth to a daughter at the area, which was outside government control. On November 12, 2014 she obtained birth certificate issued by the Registrar’s Office of Kherson. She moved from the Crimea with her two kids and stayed in the city of Ternopil where she applied for child benefits on July 29, 2016. Without expecting for a decision she moved with her husband and kids to Lviv where she applied again for the same benefits. However, on November 24, 2016 the defendant denied to assign child benefits to her because she did not apply on this matter within 12 months from the date of birth of a child. The plaintiff explained that at that period she stayed at the temporarily occupied territory without having any opportunity to move. Lack of passenger transport connection with the occupied territory and constant illness of the newborn daughter made it impossible for her to apply for benefits in proper time. Moreover, the occupation authorities stated that individuals, who were born in the Crimea after the “referendum”, were the citizens of the Russian Federation and because of that she was afraid to bring a child across the administrative border with the Autonomous Republic of Crimea. She received a birth certificate for her daughter only on November 12, 2015, that is, after the expiration of 12 months after the child was born. However she applied for child benefits shortly after that, complying with the required term. In satisfying the claims, the court of original jurisdiction concluded that though the plaintiff’s application for child benefits was out of time, it was caused by annexation of the Crimea, which was the reasonable excuse. Therefore the plaintiff’s claims are legal and they meet the interests of a child. However, the court of appeal stated that 12-month term was preclusive, that is, the law did not provide possibility of its renewal. The meaning of such term is to stop the action under certain circumstances. The end of term terminates subjective rights and obligations. The court of appeal also noted that such term was long enough for a person to exercise her right to social benefits²².

22 Judgment of the Lviv regional appellate court of May 29, 2017, case no. 876/3535/17 // <http://www.reyestr.court.gov.ua/Review/66850500>.

The decision mentioned above perfectly indicates at the violations of the rights of the parties that the judges commit in deciding the case. Moreover, the court decision contained information on the place of residence of the plaintiff, which is a clear violation of her right to protection of personal data.

Formal application of laws, when the rights of IDPs were obviously violated, occurs in other cases. Thus, a person was denied burial assistance and underpaid pension for the reason that he applied to the Pension Fund department at the locality where he resided instead of the department where the deceased person used to receive pension. The court of appeal stated that plaintiff's claims were in breach with Clause 5.1 of the Procedures for submission and preparation of documents for assignment (recalculation) of pensions, approved by the Resolution of Bard of the Pension Fund of Ukraine, No. 22-1, November 5, 2005, which provides that burial assistance shall be issued by the Pension Fund department where the deceased pensioner was registered. The Supreme Administrative Court of Ukraine took into consideration that both the deceased pensioner and the applicant were registered as internally displaced persons who had moved from the temporarily occupied area of Ukraine. Accordingly the right to burial assistance for those persons is guaranteed by the Law of Ukraine "On ensuring of rights and freedoms of internally displaced persons" and therefore the actions of the Pension fund department are illegal and the claims of the applicant must be satisfied²³.

Another court committed similar formal approach when it dismissed a case brought by an applicant, who was not able to submit necessary documents within 12 months from the decease of his husband, to have the pension assigned to her, because her passport had been withdrawn by the border guard of illegal armed groups. Thus, she was unable to overpass the contact line and leave Donetsk over the stretch from August, 2014 till April, 2016. The court of appeal stated that the plaintiff's arguments were not based on the proper proof²⁴.

23 Ruling of the Supreme Administrative Court of Ukraine of March, 15, 2017, case no. K/800/16454/16 // <http://www.reyestr.court.gov.ua/Review/65440532>.

24 Ruling of the Kharkiv appellate administrative court of May, 16, 2017, case no. 536/2019/16-a // <http://www.reyestr.court.gov.ua/Review/66620552>.

Inconsistent legislative regulations of the IDP issues caused another lawsuit. One of the internally displaced person was granted monthly social security payments to cover the cost of living, including the housing and communal expenses at 442 UAH/14 EUR. On May 13, 2016 he quit upon mutual agreement and from June 1, 2016 went on to work there under other conditions. The social security payments, previously assigned to him, were reduced to a half amount for the next two months and later the payments were terminated because of no proof for an official employment. Based on the resolution of the local Job center of May 24, 2016 she was officially considered "unemployed" and started receiving dole. At the same time, according to the agreement of May 31, 2016 she conducted managerial trainings until August 15, 2016. From August 22, 2016 till December 31, 2016 she kept doing the same under another agreement while her income was subject to social insurance contributions.

Periods of work under civil agreements shall be included in the insurance record. Information on the insurance record upon civil agreements is logged to the Register of the insured persons which can be accessed by the employees of social security divisions. Hence, the applicant, in accordance with Clause 7 of the Procedures of issuing of monthly social assistance to internally displaced persons to cover the cost of housing, including and communal expenses, adopted by the Enactment of the Cabinet of Ministers of Ukraine, No. 505 of October 1, 2014 cannot be considered as employed. Therefore the defendant's actions of denial to assign monthly social assistance are illegal. That is why the conclusions that employment must be arranged in accordance with the Code of labour laws of Ukraine to have the social assistance assigned is faulty²⁵, that is, the civil agreement does certify the employment.

25 Judgment of Dnipropetrovsk appellate administrative court of June 14, 2017, case no. 212/7009/16-a <http://www.reyestr.court.gov.ua/Review/67242184>.

Access to justice

As a rule, lawsuits filed in the wrong jurisdiction are returned to the applicants.

Thus, in the survey it was discovered that some internally displaced persons used to file lawsuits in the courts at their previous permanent place of residence (in the cases where a lawsuit could be filed either at the place of residence/location of a defendant or place of residence of a plaintiff). The courts return such lawsuits to the applicants because of wrong jurisdiction and indicate that those lawsuits are to be filed at the locality where they are registered as internally displaced persons²⁶.

Sometimes the plaintiffs failed to submit an IDP certificate to the court to confirm their actual place of residence, which was the factor to determine the correct jurisdiction. In such cases the courts stayed proceedings providing time for a plaintiff to correct mistakes²⁷.

In case the lawsuit is filed against a person whose place of residence is registered at the area, which is outside government control, the courts refer to the Enactment of the Cabinet of Ministers of Ukraine “On the registration of internally displaced persons”, No. 509, October 1, 2014, which requires verification of the fact whether the defendant is an internally displaced person.

In accordance with Clause 11 of the Procedure of registration and issuance of a certificate on the registration of an internally displaced person, the municipal governments are entitled to access information on internally displaced persons in the

General informational database. Such information, if acquired on the defendant, is intended to keep him aware of the proceedings, which at least guarantees competitiveness of the case and the right of a defendant to submit all necessary proof. It will also provide to comply with the regulations of procedural law regarding the proper notification of the parties about the date, time and place of the hearings²⁸.

It is worth mentioning that formalist approach of courts to the application of the related legislative acts, once they were adopted, created obstacles for people going to the law. In those cases the courts, based on wrong jurisdiction, used to return lawsuits since they had been filed at the place of actual residence of internally displaced persons. The courts stated that: “plaintiff’s argument about his actual place of residence proven by the certificate of an internally displaced person cannot be the grounds to alternate jurisdiction.”²⁹.

Special attention should be drawn to the complaints, left without consideration in the cases because the applicant did not come to the court to give personal explanations of his claims or there was no information on him logged to the General informational database on internally displaced persons³⁰.

26 Ruling of the Luhansk regional Popasna district court of December 28, 2015, case no. 423/1696/15-ц // <http://www.reyestr.court.gov.ua/Review/54734805>.

27 Ruling of the Kharkiv region Lozova district court of April 15, 2015, case no. 629/1347/15-ц // <http://www.reyestr.court.gov.ua/Review/43650171>.

28 Rulings of June, 24, 2016, case no. 298/676/16-ц // <http://www.reyestr.court.gov.ua/Review/59100135>, January 5, 2017, case no. 227/3/17 // <http://www.reyestr.court.gov.ua/Review/64141906/>

29 Ruling of November 26, 2014, case no. 636/4711/14-ц // <http://www.reyestr.court.gov.ua/Review/41578343>.

30 Ruling of the Donetsk region of the Artemivsk district court of April 25, 2016, case no. 219/1340/16-ц // <http://www.reyestr.court.gov.ua/Review/57379927>.

Registration of internally displaced persons

If a person is compelled to move to another region and claims for obtaining IDP status, but the locality where he came from was not included in the list of municipals, which are outside government control, the courts decide the cases in different ways. The Social security departments deny registering them as internally displaced persons.

In one of the cases the applicant indicated that at the area, where she permanently lived, there was an active armed conflict which was certified by official reports of OSCE. Moreover, she insisted that the locality, where she resided, was in the list of the municipals where the anti-terrorist operation was being conducted, in accordance with the Ordinance of the Cabinet of Ministers of Ukraine No. 1275-r, December 5, 2015. Accordingly, she was compelled to abandon her place of residence to elude negative impact of the conflict. The court pointed out that the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons” must be applied irrespective of the List of localities at the area which is temporarily outside government control and the List of localities situated at the contact line, approved by the Ordinance of the Cabinet of Ministers of Ukraine No. 1275-r. Therefore, the fact that the respective locality is not in the lists mentioned above cannot justify the denial to issue the IDP certificate and indicate at the absence of circumstances which caused internal displacement in accordance with Article 1 of the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons”. The court also referred to the judgment of the European Court of Human Rights in the case of *Shchokin v. Ukraine* (no. 23759/03, 14 October 2010) where it was stated that the “quality of law” concept requires that it be accessible to the persons concerned, precise and foreseeable in its application. The lack of the required clarity and precision of the domestic law upset the requirement of the “quality of law” under the Con-

vention. If domestic legislation offered ambiguous or multiple interpretations of the rights and obligations of the individuals, the domestic authorities were obliged to take more favourable approach to the taxpayer. As a result, the court satisfied the claims of the plaintiff and recognized denial of the Social security department to issue an IDP certificate as illegal. It also obliged the defendant to treat the plaintiff’s application once again³¹.

Among the cases of such category one of the most interesting is the case brought by a person who abandoned 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. The Social security department, rejecting his claims, explained that on March 25, 2014 the Crimea had not been determined as a temporarily occupied territory of Ukraine. The court did not share that opinion. It also mentioned that it was common knowledge that on March 3, 2014 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 March 16, 2014 an illegal referendum on the Crimea status was carried on. On March 17, 2014 the “Republic of Crimea” was proclaimed, based on the referendum results and “the Declaration of independence of the Autonomous Republic of Crimea and Sevastopol”. On March 18, 2014 there was a treaty signed by both the Russian Federation and so-called “Republic of Crimea” on the adoption of the latter into the Russian Federation. All these events were widely covered in the media when they were on, that is why they are still widely-known.

The court does not accept the defendant’s statement that the applicant was not entitled to obtain the IDP status before the Law of Ukraine “On ensuring the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine” came into force. This law determined the status of the Crimea as a temporarily occupied territory while the circumstances that caused the adoption of that law had aroused earlier. Upon the analysis of the foregoing, the court concluded that the plaintiff, starting from March 18,

31 Judgment of the Donetsk regional Selydiv city court of July 21, 2017, case no. 242/1641/17 // <http://www.reyestr.court.gov.ua/Review/67881367>.

2014, had all the reasons to consider the territory of the Crimea as occupied and foresee the negative impact of the occupation since that area was outside government control. Therefore the court assumes that the applicant is an internally displaced person in accordance with Article 1 § 1 of the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons”.

At the same time the court had specific approach to the question of the possibility to obtain IDP status for persons who registered their new permanent place of residence after they had moved from the Crimea (in accordance with the Law of Ukraine “On freedom of movement and free choice of place of residence in Ukraine”, Article 6 § 1). Basically, if done so, a person can no longer become an IDP based on the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons”. The court stated that this law was adopted much later, only on November 22, 2014, and therefore a person could not act and should not have acted in correspondence with this law³².

There is another category of people who have troubles registering as internally displaced persons: those who actually lived at the areas of warfare in the East of Ukraine being at the same time officially registered in other regions. There is a large number of people of that category and they were also compelled to abandon their places of residence because of the conflict. Thus, in one of the cases an applicant pointed out that since 2006 she had been living at the place that had not been her registered place of residence. She was rejected an IDP status because of no registration at the locality she had moved from. The applicant provided evidence that she had actually lived in Donetsk when the anti-terrorist operation started: she had worked at the Donetsk regional affiliate of Raiffeisen Bank Aval, which was proved by her workbook; she gave birth to a child at Makiyivka, which is certified by a birth certificate, she had received medical treatment in Donetsk in 2013. The case was dismissed. The court also concluded that only those rights, freedoms and interests were to be protected that had already been violated by the time the court started investigation. However, by the time the proceedings began the plaintiff had not had her rights abused because of failure to get the status of internally displaced person. Though she admitted that

32 Judgment of the Zaporizhzhia regional administrative court of May 18, 2015, case no. 808/2230/15 // <http://www.reyestr.court.gov.ua/Review/44344969/>

she would want that status in future, the Code of Administrative Legal Proceedings does not provide the protection of rights for the future³³. The denial itself to grant IDP status is not interpreted by the court as a violation of rights.

In another case³⁴ an IDP filed a lawsuit complaining against the actions of Social security division as illegal and discriminative. He also mentioned that he had applied to the defendant for issuing an IDP certificate for him. Until July 2015 he lived in Donetsk with his wife. Nevertheless, they did not have their place of residence registered officially because his wife had sold her apartment a few years before and the money had been invested into commercial and charity activities. When the violations of human rights (kidnapping, marauding, etc.) started to occur in Donetsk and once the armed people on the war materiel entered the city he moved with his wife and mother to Berdyansk, then to Transkarpatia. Since October 2014 they have been living in Rivne.

The plaintiff's agent in the case pointed out that Article 4 § 2 of the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons” (about the obligation of a person to have a registered place of residence at the area, which is outside government control, by the time the mass abuse of human rights started to occur) was in breach with Article 2 § 2 of the Law of Ukraine “On freedom of movement and free choice of place of residence in Ukraine”, Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms in conjunction with Article 1 of Protocol No. 1. He asked the court to ascertain the fact of discrimination on the grounds of missing the registered place of residence. He also submitted evidence of the plaintiff's actual residence in Donetsk until July 3, 2014. The court concluded that the defendant's actions, as a denial to register the applicant as an internally displaced person and issue the related certificate, came in breach with the law. In accordance with Article 8 §§ 1 and 2 of the Code of Administrative Legal Proceedings the court deciding a case is guided by the principle of the supremacy of law, according to which, in particular, the person, his or her rights and freedoms are recognized as the highest value and determine the

33 Judgment of the Zaporizhzhia regional Berdiansk district court of January, 24, 2017, case no. 310/8280/16-a <http://www.reyestr.court.gov.ua/Review/64389823>.

34 Judgment of the Rivne regional Rivne city court of March, 27, 2015, case no. 569/2646/15-a <http://www.reyestr.court.gov.ua/Review/43654403>.

content and direction of activity of the state. The court exercises the principle of the supremacy of law relying on case-law of the European Court of Human Rights.

In the Judgment of September 20, 2012 (case of Fedorchenko and Lozenko v. Ukraine, no. 387/03) the Court recalls firstly that, according to its established case-law, discrimination means treating differently, without any objective and reasonable justification, persons in relevantly similar situations. That is the situation with the defendant treating the applicant, compared to other people who abandoned their dwellings at the Donetsk and Luhansk regions. Quite the opposite, other people who are registered at the place of residence at one of the respective regions will obtain IDP certificates freely, which is unavailable for a plaintiff. Despite those regulations are provided by the law, they are undoubtedly discriminative.

The procedure of issuing of social security payments to internally displaced persons provided by the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons” and the Procedures of issuing of monthly social assistance to internally displaced persons to cover the cost of housing, including and communal expenses comes into breach with Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1. Thus, in the hearings it was proved that the plaintiff had experienced less favourable treating than other people who had been compelled to abandon their place of residence in Donetsk. The only obstacle was that the registration of the place of applicant’s residence was missing. Such treating is considered by the court as clearly illegal and discriminative since it has no objective and reasonable grounds and therefore it does not have legitimate aim.

In accordance with Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms the enjoyment of the rights and freedoms shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth of other status. In accordance with Article 2 of the Law of Ukraine “On freedom of movement and free choice of place of residence in Ukraine” registration or failure to register the place of permanent or temporary residence of an individual cannot be the basis for the limitation, or a condition for the fulfilment, of those rights and freedoms that are guaranteed by the Constitution, Law or international treaties of Ukraine. Even though, the reason for less favourable treating of the applicant

was the fact of missing registration of the place of residence in Donetsk by the time of his departure from Donetsk in July 2014, which is a violation of Article 14 of the Convention. Accordingly, the court recognized the actions of the defendant as illegal and discriminative.

Inconsistency of legal regulations sometimes leads to controversial situations when a person is compelled to move within a single locality. Thus, a person applied to a Social security department for registering her as an internally displaced person because she was compelled to abandon her place of residence (her dwelling had been destroyed). However, her claim to obtain an IDP certificate was rejected because she had moved within a single locality, which did not warrant an IDP status according to the law. The court stated that registration of a person as an IDP could have been grounded on the fact of a person’s abandonment of his residence caused by circumstances mentioned in Article 1 of the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons”. The residence here means definite dwelling (house) but not locality. The legislation does not determine area where an applicant may change his place of residence; it can be within or as well beyond the definite locality. That was the reason for a court to accept the claims³⁵.

The regulations of Article 3 of the Procedure of registration and issuance of a certificate on the registration of an internally displaced person (the Enactment of the Cabinet of Ministers of Ukraine, No. 509 of October 5, 2014) caused another lawsuit. The subject of controversy was a requirement for a person to declare his actual place of residence and non-participation in criminal abuses in the fill-in form for registration as an internally displaced person. The plaintiff insisted on its discriminative nature. The court accepted the claims relying on Article 62 of the Constitution of the Ukraine (“A person is presumed innocent of committing a crime and shall not be subjected to criminal punishment until his or her guilt is proved through legal procedure and established by a court verdict of guilty. No one is obliged to prove his or her innocence of committing a crime”)³⁶.

35 Judgment of the Donetsk regional Maryinka district court of May 24, 2017, case no. 237/1543/17 // <http://www.reyestr.court.gov.ua/Review/66796120>.

36 Judgment of the Kyiv appellate administrative court of March 13, 2017, case no. 826/3272/16 // <http://www.reyestr.court.gov.ua/Review/65407284>.

Ascertainment of jural facts (fact of decease in the definite area or moment of time, etc.)

This topic is about cases of decease that occurred at the area, which was outside of government control (occupied territory of the Crimea and the area of anti-terrorist operation). Because no Ukrainian authorities recognize documents issued by authorities at the territory, which is outside government control, the people go for a law to ascertain different jural facts. It is worth noting that 25% of judgments in the cases on this matter (mostly the cases of the Donetsk regional Kostiantynivka district court) include the following arguments: “In estimating the evidence the court relies on case-law of the European Court of Human Rights which shall be a source of law for courts in accordance with the national legislation”. Thus the court refers to the judgments in the cases of applicants versus Turkey (“Loizidou v. Turkey”, “Cyprus v. Turkey”), Moldova and Russia (case of Mozer v. the Republic of Moldova and Russia).

In the related judgments, based on the Advisory Opinion of the International Court of Justice (UN) in Namibia case, the ECHR concluded that the undertakings given by a Contracting State under Article 1 of the Convention include, in addition to the duty to refrain from interfering with the enjoyment of the rights and freedoms guaranteed, positive obligations to take appropriate steps to ensure respect for those rights and freedoms within its territory. Those obligations remain even where the exercise of the State’s authority is limited in part of its territory, so that it has a duty to take all the appropriate measures which it is still within its power to take.

This conclusion of the ECHR refers to the so-called “Namibian exception” in the above-mentioned Advisory Opinion of the International Court of Justice (UN) in Namibia case, which means an exception to the general principle of invalidity of acts, including regulations issued by the governmental institutions not recognized internationally. This exception indicates that all documents issued in the occupied territory cannot be invalidated, as this may

violate the rights of residents of such territory. In particular, invalidity cannot be extended to those acts, such as, for instance, the registration of births, deaths and marriages, the effects of which can be ignored only to the detriment of the inhabitants of the territory. The ECHR made strong reference to the Advisory Opinion of the International Court of Justice in the Namibia case, where the Court held that international law recognizes the legitimacy of certain legal arrangements and transactions in situations of de facto authority when ignoring those acts would only be to the detriment of the inhabitants of the territory.

Hence, the court considers that one can experience difficulties in the proceedings of registration of a person’s death. In order to observe the rights and freedoms of Ukrainian citizens, the court concluded to ascertain the fact of death, since the law does not provide for another procedure to ascertain this fact³⁷.

37 The judgment of the Donetsk region Kostiantynivka district court of February 27, 27.02.2017 p. // <http://www.reyestr.court.gov.ua/Review/64970478>.

Employment

This category of cases mainly relates to the episodes of termination of employment contracts. Some cases indicate that IDPs do not have enough knowledge on the current legislation on protection of their rights, generally because of its dynamic changes. One of the cases had a plaintiff filing a lawsuit and claiming for dissolution of a labour contract because he had been compelled to abandon his permanent place of residence (the city of Antratsit) in September 2015, as a consequence of anti-terrorist operation. Hence, he can no longer keep working for the defendant and has no opportunity to apply to the owner for quitting his job. He claimed for dissolution of a labour contract between the defendant and him from September 2015 on his own initiative because of his move to another locality.

In accordance with Article 7 § 4 of the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons” an internally displaced person who did not quit/discontinue business, in case he can no longer work/make business at previous place of residence, shall obtain unemployment status, receive dole and public services under the unemployment insurance system, provided that he discontinued employment relations by submitting notarial application on dissolution of a labour contract along with the proof of having posted the same application to the employer by a registered letter. In case no carrier can provide posting to/from the locality where a person moves from, this application is to be submitted to a Job center at the locality where an internally displaced person settles. However, the plaintiff did not follow the procedures established by Article 7 § 4 of the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons” as he did not apply to a Job center at his new place of residence³⁸.

38 Judgment of the Kyiv district court at Poltava city of January 20, 2017, case no. 552/7146/16-ц // <http://www.reyestr.court.gov.ua/Review/64182742>.

Voting rights

There are not many disputes in this category. The common issue that was discussed in the courts was the right of IDP to change voting address because of resettlement. Applicants generally claim for recognition of decisions of the State registry of voters administrator to deny voter’s registration data change as illegal; for enrolling the information on them into the State registry of voters, including the information of their place of residence specified in the certificate of internally displaced person. The reason for lawsuits is basically a denial to meet applicant’s claims because a citizen’s relevance to a definite territorial entity is determined by his registered place of residence specified in his passport or temporary certificate of the citizen of Ukraine (Article 8 of the Law of Ukraine “On the State registry of voters”). At the same time the IDPs mention that they have a new place of residence proven by the IDP certificate. In such cases the courts state that in accordance with Article 8 of the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons” the internally displaced person exercises his or her voting right at presidential elections, elections of people’s deputies, municipal elections and referendums by changing place of voting instead of changing voter’s registration data.

That is, a place of voting and voter’s registered address are not the same thing. In accordance with Article 8 the Law of Ukraine “On ensuring of rights and freedoms of internally displaced persons” once the elections are underway the applicant can cast his vote at the place of his temporary residence without changing voter’s registered address at the State registry of voters³⁹.

39 Ruling of the Dnipropetrovsk appellate administrative court of February 1, 2017, case no. 310/8359/16-a // <http://www.reyestr.court.gov.ua/Review/64655376>; ruling of the Kyiv city appellate administrative court of June 1, 2017, case no. 372/817/17 // <http://www.reyestr.court.gov.ua/Review/66952728>.

Such legal position is based on conclusions of some courts on IDP specific status, that is “the IDPs are no members of the territorial community where they moved to and therefore they are not entitled to vote at local election... The regulations of the Law of Ukraine “On the local elections” have no clause on the rights of internally displaced persons to vote at local elections where they actually reside because they remain a part of territorial communities where they have a registered place of residence in accordance to the Law of Ukraine “On freedom of movement and free choice of place of residence in Ukraine”. Participation of internally displaced persons in local elections beyond their original voting districts is a breach of Article 3 of the Law of Ukraine “On the local elections”. Internally displaced persons are vested full amount of voting rights except for the participation in local elections unless their registered place of residence correspond to the address of their actual dwelling. The internally displaced person can exercise his or her voting rights in presidential elections, elections of the people’s deputies of Ukraine, referendums⁴⁰.

40 Judgment of the Kharkiv appellate administrative court of April, 25, 2017, case no. 644/9874/16-a // <http://www.reyestr.court.gov.ua/Review/66270260>.

Ownership and property

In one of the cases there was a dispute originated by a person who intended to overcross the contact line with some peripheral equipment worth 10400 UAH/320 EUR. In the proceedings the person explained that the equipment was his personal things that he had previously received by mail. That was a used item that he had bought for 9000 UAH/278 EUR.

The Enactment of the Cabinet of Ministers of Ukraine of March 1, 2017 No. 99 has introduced the Procedure for movement of goods to the area or from the area of anti-terrorist operation. Article 9 of the Procedure provides for the individuals that goods shall be moved in hand luggage and/or in the escort vehicle; goods shall meet the nomenclature and volume (value, weight, number) requirements approved by the MTOT (the Ministry of temporarily occupied territories and internally displaced persons of Ukraine). In accordance with the MTOT Order of March 24, 2017, No. 39 “On adoption of the list and volumes of goods allowed for movement to/from the humanitarian logistic centers and across the contact line” individuals may move through the checkpoints on specified vehicle corridors 75 kg per person (total cost maximum 10,000 UAH/308 EUR). The court mentioned that the administrative offence files did not have the proof (bills, expertise, etc.) for the cost of equipment that was presumably worth 10400 UAH/320 EUR. Since the equipment was used, the cost should have been determined, going from its runout. However, the court is not empowered to seek for a proof for individual’s guilt in committing offence since otherwise the court turns into a prosecutor being no longer an independent institution of justice, which is a breach of Article 6 of Convention for the Protection of Human Rights and Fundamental Freedoms. Thus, in this case the protocol of administrative offence was not prepared in full accordance with Article 256 of the Code of Ukraine on administrative offenses and the court has got no adequate means

to ascertain the elements of administrative offence under Article 204-3 § 1 of the Code of Ukraine on administrative offenses.

In accordance with Article 6 of Convention for the Protection of Human Rights and Fundamental Freedoms, in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. The European Court of Human Rights always takes into consideration that the court shall base its ruling only on the evidence which follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (case of *Korobov v. Ukraine*, no. 39598/03, 21 July 2011) and in assessing evidence the court adopts the standard of proof “beyond reasonable doubt” (case of *Ireland v. the United Kingdom*, no. 5310/71, 18 January 1978). Article 62, § 3 of the Constitution of Ukraine provides that all doubts in regard to the proof of guilt of a person shall be interpreted in his favour. Accordingly the court concluded the person could not be liable for administrative offence⁴¹.

Speaking about issues concerning the rights of IDPs (including the right to social security payments) and ways to uphold them, it is worth mentioning about the ruling of Odessa appellate administrative court of January 26, 2017 in the case no. 668/13988/15-a⁴². This case was brought by a person who applied for pregnancy benefits but the amount of benefits was significantly cut by the employer. The reason was that the area where the enterprise was functioning no longer remained under control of the Ukrainian government since July 2014, and consequently the employer did not pay social security contributions since then. The court referred to Article 1 of Protocol No. 1 to the Convention which provides that every individual and legal entity shall be guaranteed the right to peacefully own their property. In the case-law of the ECHR the civil right and accordingly the property includes the right to claim social security payments from state. As the ECHR states, the right to protection of property is not absolute. It is subject to restrictions clearly prescribed

in Article 1 of Protocol No. 1. Interference with the right to peaceful enjoyment of possessions shall be allowed only if: 1) it is prescribed by law; 2) it is in the public interest; 3) it is necessary in a democratic society. All three conditions must be fulfilled cumulatively. Should only one of them not be met, there will have been a violation of the Convention. A measure interfering with peaceful enjoyment of possessions must be necessary in a democratic society and direct at achieving a legitimate aim. It must strike a fair balance between the demands of the general interest of the community and the requirements of the individual’s fundamental rights. Such a fair balance will not have been struck where the individual property owner is made to bear “an individual and excessive burden”. In order for an interference with property to be permissible, it must not only serve a legitimate aim in the public interest, but there must also be a reasonable relationship of proportionality between the means employed and the aim sought to be realised.

In the above case the court concluded that on the relevance of Article 1 of Protocol No. 1 to the Convention the national legislature of the Ukraine does not establish any restrictions for issuing of pregnancy benefits. Legislation does not provide imperative restrictions for authorized institutions to assign social security payments in case the employer failed to pay social security contributions. Therefore, the interference of state with the right to peaceful enjoyment of possessions, namely in this case – the right to social security payments in the amount of 4372,20 UAH/135 EUR, does not indicate at fair balance between general interest of state and the interests of the individual who suffers from interference.

41 Resolution of the Donetsk regional Artemivsk district court of July 18, 2017, case no. 219/7737/17 // <http://www.reyestr.court.gov.ua/Review/67879188>.

42 <http://www.reyestr.court.gov.ua/Review/64346827>.

Filing complaints against inaction of government authorities

There are not many disputes in this category. Yet, these are the complaints against inaction of the President of Ukraine to submit to the Verkhovna Rada of Ukraine a declaration of a state of war or to introduce to the National Security and Defence Council of Ukraine a proposal for the establishing martial law within the administrative bounds of Lugansk and Donetsk regions or throughout the territory Ukraine and other related lawsuits. In some cases the applicants also claim for redemption of physical and moral injury.

The courts, including the Supreme Court of Ukraine, which introduce legal positions, compulsory for deciding other similar cases, take into consideration that the President of Ukraine is empowered to submit to the parliament a declaration of a state of war and adopt a decision on the use of the Armed Forces and other military formations and adopt a decision on the general or partial mobilisation and the introduction of martial law in Ukraine. Even so the President is entitled to decide in any particular case on the matters that concern national interests and homeland security, factors that threaten the state sovereignty of Ukraine, rights and freedoms of citizens, on the grounds of aims and duties of state provided by Articles 1, 3, 17, 18, 102, 106 of the Constitution of Ukraine. The powers in the scope of politics, homeland security and defence mentioned above are discretionary but they are exercised in accordance with the Constitution and laws of Ukraine. Prior to make relative decisions, the President of Ukraine takes into account political reasons and factors of foreign and internal policy⁴³.

43 Judgment of the Supreme Court of Ukraine of May 31, 2017 // <http://www.reyestr.court.gov.ua/Review/67382296/>

Criminal cases

Criminal cases are mostly brought against persons who apply for social assistance to cover the cost of housing, including and communal expenses, yet they conceal information on dwellings they own beyond the area of anti-terrorist operation.

Cases of administrative offences

There is a case that is worth attention. The information desk of one the mansions had a list of 36 internally displaced person who lived there: names and addresses (street, building and apartment number) included. A body of information was personal data, that is, the confidential information on individuals. The person who made it public was found guilty of the administrative offence provided by Article 188-39 of the Code of Ukraine on administrative offenses and fined 5100 UAH/157 EUR⁴⁴.

But most of the cases are about violations of the Procedure for movement of goods to the area or from the area of anti-terrorist operation and MTOT Order of March 24, 2017, No. 39 “On adoption of the list and volumes of goods allowed for movement to/from the humanitarian logistic centers and across the contact line”, which establishes the amount of goods (except for the personal belongings and excise goods) to be moved across the contact line: 75 kg of goods per person (total cost maximum 10,000 UAH/308 EUR).

Abuse of those regulations may result in levying a fine but in most cases the authorities cannot provide proper evidence for violations and the court dismisses a case⁴⁵.

44 Resolution of the Luhansk regional Rubizhne city court of October 10, 2016, case no. 3/425/436/16 // <http://www.reyestr.court.gov.ua/Review/61944395>.

45 Resolution of the Donetsk regional Artemivsk district court of November 7, 2017, case no. 219/11290/17// <http://reyestr.court.gov.ua/Review/70538249>, resolution of the Donetsk regional Selydove city court of July 21, 2017, case no. 242/1641/17 // <http://reyestr.court.gov.ua/Review/67881367> та ін.

Access to justice for internally displaced persons

Based upon the matter of survey, the questions of access to justice for internally displaced persons and the related guarantees draw much interest.

By adopting on October 12, 2016 the Resolution “Legal remedies for violations of human rights at the areas of Ukraine, which are outside government control” the Parliamentary Assembly of the Council of Europe urged the Ukrainian authorities to make easier, as far as is in their power, the daily life of internally displaced persons and other people, whose rights and interests are to be upheld because of continuous conflict in the Donbas region and Crimea. It means facilitating access to justice, that is, adequate equipment and staffing of courts that have now been vested jurisdiction over the areas which are outside government control⁴⁶.

The emphasis on access to justice made by the Assembly is quite understandable. Indeed, due to such access private individuals, particularly those who claim for a status of an internally displaced person or those who have already obtained it “can get proper access to asylum, housing, health care, food, water, as this may not always be immediately available. Sometimes one has to fight for it. Effective access to justice is also an important tool for the reimbursement of all losses caused to internally displaced persons, particularly by displacement. It is also a means by which you can bring the perpetrators of international crimes to justice for their actions.”⁴⁷.

46 Legal remedies for human rights violations at the areas of Ukraine, which are outside government control. Parliamentary Assembly of the Council of Europe Resolution adopted on October 26, 2016. Internet resource. - Link: <http://mtot.gov.ua/deyaki-roz-yasnennya-shhodo-rezolyutsiyi-parye-vid-12-10-2016/>.

47 Protection of internally displaced persons in accordance with the European Convention on Human Rights and other standards of the Council of Europe: manual / Costas Paraskeva. - Kharkiv: Right, 2017. - P. 132.

I. THE NATURE OF ACCESS TO JUSTICE

Access to justice, as a rule, is determined by a set of regulations which, if observed, ensure unimpeded access for a person to protection of his abused rights, freedoms and interests at the court. These regulations have been written in Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 – “The Right to Fair Trial”⁴⁸; basically they are called guarantees of fair trial and divided into three categories: 1) regulations on access to justice; 2) organizational; 3) procedural.

The regulations on access to justice are meant to remove any possible obstacles for an individual in order to: a) initiate legal investigation of dispute in the court, b) claim for direct investigation of dispute by the court, c) receive legal aid, including free of charge that the individual is eligible to; d) pay a court fee the amount of which is not much too burdensome.

Organizational guarantees provide for the investigation and solution of a dispute (a) by an independent and (b) impartial (c) tribunal (d) established by law.

Procedural guarantees indicate that hearings should be (a) fair, (b) public (taking into account that the judgment is subject to mandatory public proclamation), (c) performed within reasonable time.

The Convention commits compliance with those regulations regardless of what the litigation is about. However, Article 6 § 1 provides regulations of justice in any form including civil, economic, administrative or criminal, while Article 6 § 2 and § 3 refer exclusively to the participants of criminal proceedings.

II. WAYS TO EVALUATE THE ACCESS TO JUSTICE IN ADMINISTRATIVE PROCEEDINGS

Internally displaced persons, as well as other people, whose rights, freedoms and interests are to be upheld because of the ongoing conflict in the Donbas region and Crimea, in most cases experience unfair attitude in so-called official relationships represented by a governing institution which is supposed by law to provide

48 On Ratification of the Convention on the Protection of Human Rights and Fundamental Freedoms, 1950, Protocol 1 and Protocols 2, 4, 7 and 11 to the Convention: Law of Ukraine, July 17, 1997 // The bulletin of the Verkhovna Rada of Ukraine. - 1997. - # 40. - Art. 263; Official translation of the ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, published at: Official Bulletin of Ukraine. - 2006. - # 32. - Art. 2371

assistance, certain preferences, etc. to all those individuals. Thus, the protection of their rights, freedoms and interests upon the national law is exercised in administrative court in accordance with the regulations of the Code of Administrative Legal Proceedings of Ukraine⁴⁹ which has recently undergone significant changes.

A. In order to figure out the overall picture of access to administrative justice for those who seek protection, the experts of the Project “Rights of refugees and internally displaced persons: the best European practices and ways of their implementation” have questioned the residents of Kharkiv, Donetsk and Luhansk regions (Kharkiv, Kramatorsk, Slovyansk, Severodonetsk, Makiyivka, Starobelsk).

The respondents were asked the following questions:

1. Did you go to the law to protect your rights as an IDP?
2. Did you apply to the Legal Aid Center?
3. Please specify what rights of yours had to be protected by the court?
4. Have you had success asserting your rights?
5. Did you pay court fees?
6. Did the judge ask you to itemize your claims?
7. Did the court decide on all the issues of your lawsuit?
8. Was the case investigated only based upon the evidence provided by you and the defendant?
9. Were you required by the court to disclose additional proof for your claims?
10. Did the court require more relevant proof that was necessary to resolve the case?
11. Did the case proceed in open court?
12. Please specify the timeframe between the day you filed the lawsuit and the day you got a copy of the original jurisdiction judgment?
13. Please specify the timeframe between the day you filed the lawsuit and the day you got a copy of the original jurisdiction judgment?

49 Code of Administrative Legal Proceedings of Ukraine according to the Law of Ukraine, Oct., 3, 2017. Internet resource. - Link: <http://zakon2.rada.gov.ua/laws/show/2747-15>.

14. Did the court announce the decision in open session to the litigants and other people who were present in the courtroom during the announcement?
15. Please specify the timeframe between the day of decision announcement and day you obtained the copy of the judgment?
16. Did the court issue an amended judgment upon your claims?
17. Did you file an application for clarification of any particular issues of the judgment?
18. Did you file an appeal to a higher court in your case?
19. Please specify the timeframe between the day you filed an appeal and the day you obtained a copy of the appeals court judgment?
20. Has the final judgment in your case been satisfied?
21. Did you apply to the Enforcement agency to collect the final judgment in your case?
22. Please specify the timeframe between the day you obtained a copy of the final judgment in your case and the day of its actual satisfaction?
23. Please specify the timeframe between the day you filed a lawsuit and the day of satisfaction of the final judgment?
24. Do you think that the timeframe between the day you filed a lawsuit and the day of the final judgment satisfaction was reasonable, thus the hearing and the enforcement proceeded without unreasonable delays?
25. Do you know how to act to get reimbursed for damage caused by unreasonably long hearings and/or enforcement procedures?⁵⁰

B. Each of the questions allowed choosing from 3 to 8 options of answer; the respondent could provide information for each question beyond the suggested answers by choosing “Other” option.

C. The respondents were the people who permanently or temporarily timely reside at the annexed territory.

A total of 2612 persons attended the survey.

⁵⁰ Internet resource. – Link: http://www.aprnu.kharkiv.org/news/news-23_01_2018.html.

The poll was completely anonymous: no information on age, sex, occupation of the respondents was disclosed.

However, based on the analysis of the provided answers, it was discovered that the respondents were not only the internally displaced people but also those who temporarily reside at the government-controlled area, though they consider the regions which are outside government control to be their permanent place of residence.

This circumstance has made difference to overall conclusions as it made possible to focus on the problems the Ukrainian citizens experience at the areas which are outside government control where they have to stay.

III. OVERALL CONCLUSIONS UPON THE ANALYSIS OF THE ASPECTS OF ACCESS TO ADMINISTRATIVE JUSTICE AND POSSIBLE WAYS TO SOLVE THE REVEALED PROBLEMS

Based on the analysis of the answers provided by respondents, the following conclusions have been drawn on the issues of access to justice which reflect the most significant problems of people who:

- a) already obtained the status of internally displaced person;
- b) stay at the regions, which are outside government control, being in need of protection from the Ukrainian authorities.

A. People who obtained status of internally displaced persons

The majority of respondents (76%), who obtained the status of internally displaced persons, have gone to the law claiming for cancellation of illegal of decisions, acts or inactivity of the authorities, which in the long run violated their rights to social assistance and pensions.

Speaking of non-compliance with the guarantees of access to justice, the respondents mentioned about: a) case investigation beyond the reasonable timeframe and b) unfair trial. Thus, the people who required protection spoke about the lack of guarantees of access to justice.

Reasonable time of proceedings

The European Court of Human Rights always indicates in its judgments that the “reasonable time” criteria is subjective and may depend on (a) the com-

plexity of the case, (b) the conduct of the applicant and the relevant authorities, and (c) what was at stake for the applicant in the dispute (Onopko v. Ukraine, no. 39878/05, 22 February 2012⁵¹).

European Court of Human Rights also points out that “special diligence is necessary in pensions disputes” (H.T. v. Germany, no. 38073/97, 11 October 2001⁵²).

According to clause 11 of Article 4 § 1 of the Code of Administrative Legal Proceedings of Ukraine, the reasonable time is the shortest period of investigation and resolution of an administrative case, which is sufficient to provide timely (without unreasonable delay) judicial protection of the violated rights, freedoms and interests in public relations.

Aiming at the European standards of length of proceedings the national legislator provided for such a form of legal proceedings as a simplified legal proceeding in the amended Code of Administrative Legal Proceedings of Ukraine.

The simplified procedure, according to the legislator, is meant to deal with non-complex and other cases, the quick resolution of which is of high priority (Article 12 § 2 of the Code of Administrative Legal Proceeding of Ukraine).

According to Article 12 § 6 of the Code of Administrative Legal Proceedings of Ukraine, non-complex cases may include cases where people file complaints about the amount (calculation, recalculation) of pension payments, social aid to disabled citizens, insurance payments, social preferences for people who were born during the World War II, other types of social aid and benefits.

According to the new regulations, the simplified court proceedings must be stayed for no more than 30 days from the date the case was opened, without exaction of the participants and based upon the available evidence (Article 263 §§ 1, 2 of the Code of Administrative Legal Proceedings of Ukraine).

According to the previous revision of the Code of Administrative Legal Proceedings of Ukraine, the cases on complaints against illegal decisions, acts, inaction of the authorities, which affected rights of persons to social benefits and pensions, used to be decided in the so-called reduced proceedings. Based on the practice of national courts, the solicitation for reduced proceedings

51 [Internet resource]. – Link: <http://www.old.minjust.gov.ua/file/1557.docx>

52 [Internet resource]. – Link: [https://hudoc.echr.coe.int/eng#{"fulltext":\["h.t. v. germany"\],"documentcollectionid2":\["GRANDCHAMBER","CHAMBER"\],"itemid":\["001-59713"\]}](https://hudoc.echr.coe.int/eng#{).

shortened the length of those proceedings in such cases. As a result, the plaintiff obtained legitimate judgment, which was easy to satisfy.

As an example, there is a judgment of the Kharkiv regional Dergachi district court in the case of unlawful suspension of social aid for internally displaced persons. The applicant did receive a certificate of an internally displaced person two times since she twice moved from one place of residence to another after abandoning the area, which was outside government control. Every time after receiving a certificate she could have claimed for social security payment to cover the cost of housing, including communal expenses. First time she was granted the related benefits but second time her claims for assistance were rejected. A decision of authorities to deny social assistance was based on the fact that the second IDP certificate did not have a stamp of the State Migration Service, which was supposed to prove the applicant’s place of residence to be correct. Thus, the second IDP certificate was not issued in a proper procedure, which led to a denial to assign social security payments.

It should be noted that by the time the applicant claimed for social benefits for the second time the amended law had come into force, which provided no mandatory stamps of the State Migration Service on an IDP certificate to prove the actual place of residence.

Despite the amended law, the by-law regulations remained unchanged, which caused the denial to assign social security payments for the applicant. In the judgment, the court stated that the resolutions of authorized institutions should not have relied on the by-laws, which came in breach with the acts of a higher legal effect. In case a law is at a disadvantage to a by-law, the ultimate principle of the supremacy of law is being violated.

The judgment in the case was announced in the end of reduced proceedings, under the available evidence and without exaction of the participants.

The judgment’s volume was 11 pages. It met the formal requirements for court decisions, being is legitimate and valid. The case was decided completely in favor of the an internally displaced person: suspension of social aid was considered as unlawful and the defendant was obligated to renew the payments⁵³.

53 The judgment of the Dergachi District Court of Kharkiv region, June, 26, 2016 # 58608680 [Internet resource]. – Link: <http://reyestr.court.gov.ua/Review/58608680>.

The decision was not appealed, it became effective and was later satisfied. Thus, the reduced proceedings minimized the length of the case.

Another form of shortened administrative proceeding is the institution of exemplary cases, that is, giving judgments in cases on similar matters. Exemplary cases are investigated by the Administrative Court of Cassation of the Supreme Court. Legal conclusions written in the judgment in exemplary cases must be taken into account by courts upon hearing cases on similar matters (Articles 290, 291 of the Code of Administrative Legal Proceedings of Ukraine).

The Administrative Court of Cassation of the Supreme Court has already announced judgment in one of the exemplary cases of a private person v. Pension Department of the Kharkiv Region⁵⁴. The plaintiff in that case was not an internally displaced person, however the further use of exemplary cases rule indicates that the length of court proceedings is going to shorten.

Fair trial

Using the definition of “fair trial” mentioned in Article 6 of the Convention for the Protection of Human rights and Fundamental Freedoms of 1950, the European Court of Human Rights considers that:

1. the court proceedings ought to be adversarial, providing the opportunity for the parties to have knowledge of and comment on the observations filed or evidence adduced by the other party (Ruiz-Mateos v. Spain, no. 12952/87, 23 June 1993⁵⁵);
2. based on the requirement of “equality of arms” each party must be afforded a reasonable opportunity to present his case under conditions that do not place him at a disadvantage vis-à-vis his opponent (Dombo Beheer B.V. v. The Netherlands, no. 14448/88, 27 October 1993⁵⁶);
3. the judgment in the case must be reasonable (Seryavin and others

54 Judgment of the Supreme Court of Ukraine of February 15, 2018, # 72290243 [Internet resource]. – Link: <http://reyestr.court.gov.ua/Review/72290243>.

55 [Internet resource]. – Link: http://europeancourt.ru/uploads/ECHR_Ruiz_Mateos_v_Spain_23_06_1993.pdf.

56 [Internet resource]. – Link: http://europeancourt.ru/uploads/ECHR_Dombo_Beheer_B_V_v_the_Netherlands_27_10_1993.pdf.

v. Ukraine, no. 29979/04, 10 February 2011; the Court stated in the judgment that “...judgments of courts and tribunals should adequately state the reasons on which they are based. Article 6 § 1 obliges courts to give reasons for their judgments, but cannot be understood as requiring a detailed answer to every argument. The extent to which this duty to give reasons applies may vary according to the nature of the decision. Even though a domestic court has a certain margin of appreciation when choosing arguments in a particular case and admitting evidence in support of the parties’ submissions, an authority is obliged to justify its activities by giving reasons for its decisions. A further function of a reasoned decision is to demonstrate to the parties that they have been heard. Moreover, a reasoned decision affords a party the opportunity to appeal against it, as well as the opportunity to have the decision reviewed by an appellate body. It is only by giving a reasoned decision that there can be public scrutiny of the administration of justice⁵⁷).

One of ultimate principles of the administrative legal proceedings is equality of arms since one of the parties will be a governmental institution, which has an advantage over a private individual in accessing the proof that the court must investigate to give a legitimate judgment.

To provide compliance with the above principle the administrative court is empowered to officially ascertain facts of the case. In accordance with Article 9 of the Code of Administrative Legal Proceedings of Ukraine, the court must: (a) propose that the parties provide evidence or urge them to tender proof that is lacking in the case; (b) take all procedural measures to ascertain facts of the case including discovery of the documents on his own initiative.

Based on analysis of the Code regulations, the above principle of “equality of arms” mean that the court is empowered to (a) define the fact in issue and the evidence which must be presented; (b) discover the proof on his own initiative, if it is not enough to solve the case; (c) propose that the litigants provide the evidence; (d) investigate the evidence of facts acknowledged by the parties.

57 [Internet resource]. – Link: http://zakon5.rada.gov.ua/laws/show/974_672.

Regulations of Article 77 § 2 of the Code of Administrative Legal Proceedings of Ukraine establish presumed guilt of the authorized institution and impose on him the burden of proving the legality of his decision, acts and/or inaction. Based on this rule, the court is empowered to request from the authorized institution all related evidence and documents to which its objections refer. Unless the authorized institution conducts properly with its duties, the court will urge it to tender proof on his own initiative.

Consequently, the active role of court in proceedings, combined with the defendant's duty to bear the burden of proof in the cases originated by the complaints against decisions, acts or inaction of authorized institutions, provides complying with the principle of a fair trial declared by the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950.

The analysis of recent court judgments in the cases of misconduct, unlawful decisions, acts or inaction of the authorized institution, followed by restrictions of rights of individuals to social assistance and pensions, indicates that domestic courts exercise adequate power according to the procedural law to abide by the principle of equality of arms, which subsequently guarantees fair trial for the parties.

Thus, on February 6, 2018 the Administrative Court of Cassation of the Supreme Court the Supreme Court ruled on the unlawfulness of suspension of pension payments to the internally displaced person and the held the defendant liable to renew the payments.

Plaintiff in the case was a woman who had been registered as an internally displaced person eligible to receive an old-age pension. She actually received pension during some stretch. However, the authorized institution suspended payments based of lack of information on her actual place of residence. Thus, the authorized institution considered it legal to suspend payments of pension without ascertaining the fact of her place of her residence at the locality with jurisdiction of the Ukrainian government.

The Court of Cassation stated in the judgment that the law establishes a full list of reasons to terminate payments of pension, while the defendant failed to prove at least one of them. At the same time, the court ascertained all necessary circumstances: the plaintiff had reached retirement age, she was eligible for a pension of a definite amount calculated in accordance with the regulations; she had a valid IDP certificate.

As a result, the Court concluded that the authorized institution did not present enough proof of lawfulness of its decision to suspend payments and thereby the case was decided in favor of the person⁵⁸. By this judgment, the court has demonstrated the effectiveness of procedural prescriptions on the presumed guilt of governmental institutions in the administrative disputes where they act as defendants.

B. People who stay at the areas, which are outside government control, but need protection from Ukraine

As noted above, based on the analysis of the provided answers, it was discovered that the respondents were not only the internally displaced people but also those who temporarily resided at the regions controlled by the Ukrainian government, though they consider the non-controlled territory to be their permanent place of residence.

Such people are the citizens of Ukraine and they need help and protection from the government.

Among the problems these people mostly encounter we can emphasize on the following:

1. they blame on the authorities for suspension of payments of Ukrainian pensions and other social assistance;
2. they consider themselves to be unequal to the rest of the people in Ukraine because their permanent stay at the areas, which are outside government control, is a disadvantage; however, all of them have remained citizens of Ukraine and the government must warranty the same rights for them as for the people who live at the area, which is under control of the state;
3. since they constantly reside at the non-controlled territory, they do not have the adequate opportunity to protect their violated rights and interests at the Ukrainian courts.

The above problems have much to do with the claims in the case of Tsezar and others v. Ukraine. The European Court of Human Rights delivered judgment in this case on February 13, 2018.

58 Judgment of the Supreme Court of Ukraine of February, 6, 2018. # 72028927 [Internet resource]. – Link: <http://reyestr.court.gov.ua/Review/72028927>.

Relying on Article 6 § 1 and/or Article 13 (right to an effective remedy) of the Convention, the applicants complained of not being able to challenge the suspension of their social benefits in court as the courts had been removed from the area of hostilities. They also complained about the suspension itself under Article 1 of Protocol No. 1 (protection of property) to the Convention. Several applicants raised an issue under Article 14 (prohibition of discrimination) in conjunction with Article 6 and Article 1 of Protocol No. 1 about discrimination based on their place of residence.

The Court rejected the applicants' complaints under Article 14 in conjunction with Article 6 and Article 1 of Protocol No. 1 as manifestly ill-founded⁵⁹.

The most important aspects which were taken into consideration by the ECHR to ground its position on the matter of dispute (that is, the principle of access to justice was upheld), are the following:

1. The Court noted that the impossibility, for the tribunals located in the city where the applicants resided, to adjudicate their claims was a result of the hostilities in the areas the Government do not control.

Therefore, there is no question that the authorities of the respondent State have intentionally "restricted" or "limited" the exercise of the applicants' right of access to court. The question before the Court is, rather, whether the respondent State has taken all the measures available to it to organise its judicial system in a way that would render the rights guaranteed by Article 6 effective in practice

The Court reiterates that, under its case-law, Article 6 § 1 embodies the "right to a court", of which the right of access, that is the right to institute proceedings before courts in civil matters, constitutes one aspect only. For the right of access to be effective, an individual must have a clear, practical opportunity to challenge an act that is an interference with his or her rights.

2. The Court observed that, as of at least August 2014, the courts in Donetsk had been inoperative, which was not in dispute between the parties. Accordingly, from that time onwards the applicants had been unable to file

claims with the courts located in the city of Donetsk, which clearly constituted a limitation on their right of access to a court.

At the same time the Court reiterated that the right of access to the courts is not absolute but may be subject to limitations; these are permitted by implication since the right of access by its very nature calls for regulation by the State, regulation which may vary in time and in place according to the needs and resources of the community and of individuals. In laying down such regulation, the State enjoy a certain margin of appreciation. Whilst the final decision as to observance of the Convention's requirements rests with the Court, it is no part of the Court's function to substitute for the assessment of the national authorities any other assessment of what might be the best policy in this field. Nonetheless, the limitations applied must not restrict the access left to the individual in such a way or to such an extent that the very essence of the right is impaired. Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved.

3. The Court acknowledged that the State authorities might have sometimes experienced certain difficulties in ensuring the proper functioning of the judicial system in certain regions in view of ongoing hostilities in those regions. Nevertheless, in the Court's view, the State authorities were expected to take certain steps to resolve the problem by, for instance, specifically authorising claims to be filed in courts in another region of the State.

The Court observed that in the case the State had introduced amendments to the law first authorising courts in the neighbouring regions to consider cases which would have otherwise been considered by courts on the territory not controlled by the Government and later relocating the operations of the relevant courts on the territory controlled by the Government. In particular, in September 2014 – two or four months before the applications were lodged before the Court – the courts located on the territory controlled by the Government would have already had jurisdiction over the applicants' administrative cases, if lodged.

4. The Court noted that there was no evidence to support the applicant's allegations that their personal situations precluded them from travelling to the

59 [Internet resource]. – Link: [https://hudoc.echr.coe.int/eng#{\"fulltext\":\[\"Tsezar and others v. Ukraine\"\],\"documentcollectionid2\":\[\"GRANDCHAMBER\", \"CHAMBER\"\],\"itemid\":\[\"001-180845\"\]}](https://hudoc.echr.coe.int/eng#{\).

territory where the relevant courts had been situated to file claims or authorising a representative to do so. In fact, it appeared from the documents provided by the parties that four of the applicants had been able to travel to the territory controlled by the Government after the courts had been relocated. This was, in particular, also the case of the first applicant, who, notwithstanding her health problems, was able to register herself with the Labour and Social Security Department situated at the area which was under government control.

5. As a result the Court concluded that the domestic authorities had taken the steps reasonably expected of them to ensure the proper functioning of the judicial system making it accessible to the residents of the territories currently outside the control of the Government. In the absence of any evidence that the applicants' personal situation precluded them from making use of that system, the Court concluded that in the circumstances of the case the applicants' inability to bring their claims before the courts in their city of residence had not impaired the very essence of their right of access to court. The limitation of that right was due to the objective fact of the hostilities in the areas the Government do not control and, taking into account the objective obstacles that the Ukrainian authorities had to face, was obviously not disproportionate⁶⁰.

60 [Internet resource]. – Link: [https://hudoc.echr.coe.int/eng#{"fulltext":\["Tsezar and others v. Ukraine"\],"documentcollectionid":\["GRANDCHAMBER","CHAMBER"\],"itemid":\["001-180845"\]}](https://hudoc.echr.coe.int/eng#{).

CONCLUSIONS

According to the results of interviewing officials of state bodies and local self-government institutions, representatives of non-governmental and other organizations that carry out organizational, material, consultative, legal and other assistance to the IDPs, as well as monitoring of court decisions in cases on the IDPs rights protection, expert group made the following conclusions:

1. A systemic legal barrier to the implementation of the IDPs rights is the existence of significant gaps and conflicts in the Ukrainian legislative acts which regulate issues related to the IDP legal status. This situation is due to the uniqueness of the social experience in this sphere of the relations and the high dynamism of changing the actual situation and public relations in which IDP participate. This leads to the need to improve the quality and, as a consequence, the effectiveness of legal regulation in the field of legal fixing, protection, guarantee and ensuring IDPs rights.
2. The generalization of the practice by the Supreme Court (primarily by the Cassation Administrative Court) in the categories of cases related to the protection of the IDPs rights will be important for public authorities and local self-government bodies. Such a generalization will contribute to the achievement of law enforcement, in particular, local court practice, the necessary level of legal certainty.
3. It is urgently necessary to conduct the regular information events devoted to the dissemination of legal information among IDP by the authorized state and local self-government bodies. Legal assistance plays significant role in IDP rights protection as well. The experience of free legal aid is

very positive, but it is usually aimed at protecting rights which have been already violated, and has not aim to prevent such a violation.

4. Among the all court cases related to the IDP rights protection, the following categories of cases constitute the most important (and largest) part:
 - social protection, including the right to social benefits and pensions;
 - protection of personal data;
 - access to justice (the return of claims in connection with their submission to the court which is not at the place of residence (registration), etc.);
 - registration of IDPs status (confirmation of residence in the territory from which the relocation was carried out in the absence of corresponding mark in the identification documents, , etc.);
 - legal confirmation of facts which have legal significance (in particular, the fact of death certified by the authorities in the occupied or uncontrolled territory of Ukraine);
 - realization of electoral rights (first of all, regarding elections of local self-government bodies).

The largest number of claims (suits) to the courts is filed on the issues outlined above. Lacks in legal regulation (gaps, collisions, etc.) in legal regulation of these issues contain the highest risks for the realization of their human rights by the IDP.

5. At the same time, the minimum number of cases in such categories is minimum: protection of rights related to freedom of movement; recognition, grant and renewal identity documents; family affairs (alimony, divorce, determination of the place of residence of the child, etc.); housing cases (housing suitability for living, normal living conditions, provide temporary housing, etc.); health care (providing necessary medical care, disability issues); labor disputes; education; protection of property rights; the right to peaceful assembly and others. This is due to the following factors:
 - a) on certain categories of cases persons applying to the court do not indicate the status of IDPs, considering that it does not cause peculiarities of the relevant category of cases;

- b) of particular categories of cases, IDPs, as a rule, do not consider judicial protection as an effective mechanism for solving their problems;
 - c) the actualization of a number of issues has been delayed, we should expect an increase the number of relevant lawsuits in the future.
6. According to the results of court decisions monitoring, it should be noted that the percentage of application by local (district) and appellate courts of practice of the European Court of Human Rights is very high in comparison with court practice in other categories of cases (16% of cases have such links to the ECHR practice; at the same time, the reference to the practice of the in the court practice of Ukraine ECHR as a whole is no more than 3%). It should be emphasized substantive, not formal application of the ECHR. In particular, the report presents the cases in which an appeal to ECHR practice has allowed to establish non-compliance of national legislation with European standards of IDPs human rights protection. The court in considering the case gave priority to these standards. This indicates the relatively high level of knowledge of courts with the European standards of protection of the rights of HPAs and the ability to apply them in practice.

In general, internal migration is a natural phenomenon for any country in the world. Every person has the right to choose a place of residence within his own country, change it, without interfering with any obstacles, restrictions or interferences from other private individuals or from public authorities.

However, internal migration is natural only if it is not caused by external negative factors that forcing a person to leave his or her place of residence since his or her staying in such place becomes life-threatening.

Ukrainians who migrated within the country in recent years (2014-2018) did this mainly not on their own. Resettlements from the Autonomous Republic of Crimea and Donbass sought shelter as a result of annexation and armed conflict, which continues to this day.

Different in age and gender, people are now forced to adapt their lives to new, obviously worse, conditions. As citizens of Ukraine, they are waiting for understanding and support from other Ukrainian citizens; however, they are waiting decisive steps for help them from the state especially.

The first years since the beginning of the deployment of problems with internal migration within Ukraine are marked by the rapid reaction of the authorities. Thus, a number of promptly adopted normative legal acts ensured the introduction of the status of internally displaced person, determined the procedure for acquiring such status, outlined the main preferences for those who acquired it. Subsequently, with the accumulation of sufficient experience of enforcement, the necessary changes were made to existing normative legal acts in order to take into account the special situation of IDPs..

However, it turned out that the most powerful problem has less to do with the quality of legal rules aimed at maintaining a normal existence IDPs, but mainly of stability, uniformity and adequacy of their use.

Today, when the forced internal migration of Ukrainians becomes a sign of chronicity, other problems that were not discussed a few years ago are becoming apparent.

We hope that the results of our expert group research, in particular, these finding, will help accelerate the solution of the problems and generally improve the efficiency of legal regulation in the sphere of IDPs human rights by the Ukrainian state.

Appendix¹

Questionnaire for internally displaced persons (IDPs)

Questionnaire for internally displaced persons (IDPs)

* Required field

Enter your first and last name (optional)

Your answer

Enter the name of the locality where you came from *

Your answer

Enter the name of the locality where you are living now *

Your answer

Are you registered as an internally displaced person (IDP)? *

- Yes, I am
- Registration is in progress
- No

Specify your gender *

- Male
- Female
- Other:

Specify your age *

- 18-30
- 31-45
- 46-60
- 61 and more

Specify your education *

- Elementary school
- Post-primary school
- Secondary school
- Vocational school (specialized secondary education, trade school)
- College, technical school
- High school (Bachelor, Specialist, Master)
- Academic degree

Specify your financial position *

- Low financial income
- Average financial income
- High financial income
- Cannot answer

Specify year when you were forced to leave your home because of the conflict in the East of Ukraine or as a result of the Crimea annexation?

- 2014
- 2015
- 2016
- 2017

Have you encountered any of the following problems at the local Social Security Office?

- Claims for undue preferences (bribe)
- Demands for additional documents
- Inconvenient reception schedule
- Uncomfortable office premises
- Reception requires preliminary booking
- Long queues
- Inadequate facilities for people with special needs (no ramps, elevators, etc.)
- Delayed execution of public services
- Impoliteness of the office staff
- There was no problem

Other:

Have you applied to the local office of the State Migration Service for the renewal or preparation of documents?

- Yes, I have applied
- No, I haven't applied

Have you encountered the following problems at the local office of the State Migration Service?

- Claims for undue preferences (bribe)
- Demands for additional documents
- Inconvenient reception schedule
- Uncomfortable office premises
- Reception requires preliminary booking
- Long queues
- Inadequate facilities for people with special needs (no ramps, elevators, etc.)
- Violation of terms of document preparation
- Impoliteness of the staff
- There was no problem

Other:

Have you ever overpassed the contact line in the Donetsk and Luhansk regions using passes (permits) after the onset of an armed conflict? *

- Yes, I have
- No, I haven't

Have you ever overpassed the administrative border with the Autonomous Republic of Crimea after the annexation? *

- Yes, I have
- No, I haven't

Have you encountered any of the following problems when overpassing the contact line in the Donetsk and Lugansk regions?

- Claim of undue preferences (bribe)
- Demands for additional documents
- Inconvenient reception schedule at the entry point

- Valid pass (permit) was not being displayed in the Security Service of Ukraine (SSU) database
- Unfriendly attitude of the border service staff
- Unfriendly attitude of the SSU staff
- Unfriendly attitude of the military staff
- Inaccessible information on the overpassing procedure
- Disregard of the needs of people with personal problems
- Inadequate facilities for convenient overpassing of the contact line (no toilet access, no drinking water, no medical care, etc.)
- There was no problem

Other:

Have you ever applied to the local state administrations or municipalities for free temporary housing? *

- Yes, I have and my problem has been solved
- Yes, I applied but the accommodation they offered to me didn't meet my needs
- Yes, I have but no housing option has been suggested to me
- No, I haven't applied

Other:

Have you ever applied to the local state administrations or municipalities for extending the term of free temporary housing for over 6 months from the date of registration? Has your request been solved?

- Yes, it has been solved
- It has been solved partially (upon certain conditions, for a short period, the conditions have changed)
- No, it hasn't been solved
- I haven't applied.

Have you ever encountered any of the following problems upon applying to the local state administrations or municipalities for free temporary housing?

- Claims for undue preferences (bribe)
- Demands for additional documents
- Inconvenient reception schedule

- Uncomfortable office premises of the authorities
- Reception requires preliminary booking
- Long queues
- Inadequate facilities for people with special needs (no ramps, elevators, etc.)
- Violation of the terms of response to your requests
- Impoliteness of the office staff
- There was no problem

Other:

Have you ever applied to the healthcare institutions? *

- Yes, I have applied and received medical treatment (regardless of the quality of treatment)
- No, I haven't applied

Other:

Have you (or your family) ever been denied medical treatment?

- Yes, I (we) have
- No, I (we) haven't

If you (or your family) ever been denied medical treatment, please provide details

Your answer

Have you encountered any of the following problems upon applying to the healthcare institutions?

- Long queues
- Incompetent medical staff
- Reception requires preliminary booking, voucher is required for IDPs
- Claims for undue preferences (bribe)
- Demands for additional documents, information, copies
- Impoliteness and discriminatory attitude of the medical staff
- No access to the information about procedures, no information desk
- Inadequate facilities for people with special needs (no ramps, elevators, etc.)
- Inability to get and submit all the necessary documents

- No/lack of information provided upon request
- There was no problem

Other:

Have you ever applied to the local Social Security Office for social assistance (except for the pension)? *

- Yes, I have
- No, I haven't

Other:

Have you encountered any of the following problems exercising your right to social assistance?

- Valid IDP certificate is required in any case
- Limited choice of banks to open an account
- Claims for undue preferences (bribe)
- Demands for additional documents, information
- Demands to return to the abandoned place of residence to get necessary documents
- Verification of the IDP status is required (living conditions survey based on the IDP registration information)
- Full or partial retention of allowances that weren't paid prior to the IDP registration date
- Delayed payments
- Unreasonable denial to grant allowances
- Denial to grant allowances due to the continuous absence of the IDP at the place of registration (over 60 days)
- Cancellation of allowances due to the inspections, IDP status verification
- Impoliteness and discriminatory attitude of the staff (to me as an IDP)
- Lack of possibility to submit documents to obtain social aid (non-mobile people, long queues)
- No access to the information about procedures, no information desk
- Inability to get and submit all the necessary documents
- No/lack of information provided upon request
- Unreasonable cancellation of the social aid

- There was no problem

Other:

Have you encountered other problems exercising your right to social assistance (please provide details)?

Your answer

Have you ever applied for pension or renewal of your pension?

- Yes, I have
 No, I haven't

Other:

Have you encountered any of the following problems upon pension appointment/renewal?

- A valid IDP certificate is required
- Limited choice of a banks
- Claims for undue preferences (bribe)
- Demands for additional documents, information
- Demands to return to the abandoned place of residence to get and bring the documents
- Additional validation of IDP status is required at the registered place of temporary residence (conditions of life are subject to examine by the commissions)
- Full or partial retention of the pension payments which were not received prior to the registration of an IDP
- Delayed payments
- Unreasonable denial to appoint pension
- Suspension of pension payments due to the continuous absence at the registered place of residence (over 60 days)
- Suspension of pension payments due to the inspections, verification
- Impolite attitude of the staff
- Physical inability to submit documents to appoint payments (non-mobile people, long queues)
- Absence/loss/impossibility of renewal of the documents necessary to receive pension

- Electronic pension certificate is required
- Suspension of pension payments due to non-compliance of physical identification rules (identification is required every 3 months at The Oschadbank in case of absence of an electronic pension certificate; every 6 and 12 months)
- Lack of access to the information on procedures, no information desk
- Inability to get and submit all the necessary documents
- No/lack of information provided upon request
- There was no problem

Are you currently employed? *

- Yes, I am employed and satisfied with my job
- Yes, I am employed but not satisfied with my job
- No, I am unemployed and I am seeking a job
- No, I am unemployed and I am not seeking a job

Other:

Have you encountered any the following employment problems?

- Lack of jobs that correspond my labor grade/profession
- Low salary compared to a what I used to have previously for a similar job
- Low salary that makes employment insensible (lower than dole)
- Lack of documents required for employment
- The job is far too remote from a place of residence
- Impoliteness or discriminatory attitude of the employer
- Denial of legal certification of labor relations
- There was no problem

Other:

Did you apply to the Job Center in search of a job after you obtained IDP status?

- Yes, I did and they helped me
- Yes, I did but they didn't help
- No, I didn't applied

Other:

Have you encountered any the following problems upon applying to the Employment Center?

- Long queues
- Reception requires preliminary booking, voucher is required
- Claims for undue preference (bribe)
- Demands for additional documents, information, copies
- Impoliteness or discriminatory attitude of the staff
- Lack of access to the information on procedures, no information desk
- Inability to get and submit all the necessary documents
- No/lack of information provided upon request
- Lack of facilities for special needs (no ramps, elevators)
- There was no problem

Other:

Have you ever applied as an IDP to the educational institutions in order to exercise your (your children's) right to education? *

- Elementary education
- Secondary education
- Vocation education
- Higher education
- No, I haven't applied

Other:

Have you (or your children) ever encountered any of the following problems when exercising your right to education?

- No places at infant school
- No places at comprehensive school
- No places at vocational or high school for free education
- Specific demands to enter a school
- The child doesn't speak well or unfamiliar with the language of instruction
- Demands for documents that were lost/need to be renewed
- Negative attitude to me/my kids as IDPs
- Infant or comprehensive school are far remote from a place of residence.
- No places at a hostel (for high and vocational schools)
- Lack of information on school admission/entry procedures

- Inconvenient schedule for document application
- Impossibility to pass External independent testing in proper time
- Impossibility to resume studies at another vocational or high school of Ukraine
- Impossibility to receive an IDP social scholarship
- There was no problem
- Hard to say

Other:

Have you (or your children) encountered other problems when exercising your right to education (please provide details)?

Your answer

Have you voted in municipal elections after abandoning your previous place of residence?*

- Yes, I have
- No, I haven't because I had no residence stamp in my passport
- No, I haven't since I have never intended to do so
- I had the opportunity to vote but I haven't voted
- Hard to say

Other:

Have you been involved in local governing at the territory where you have settled?

- Public Hearings
- Budget development or voting on the draft budget
- Citizens' committees
- Local initiative
- General meeting
- Local referendum
- No, I haven't

Other:

Have you ever applied to the civil registry office for a legal record of marriage/divorce, birth, death upon obtaining IDP status? *

- Yes, I have applied and received the necessary certificates
- Yes, I applied but my question was solved only after a court decision
- Yes, I applied but my application was refused due to the absence of the IDP certificate/residence registration
- Yes, I applied but my application was refused for another reason
- No, I haven't applied

Other:

If you were refused a legal record of vital event please indicate the reason

Your answer

Have any governmental institutions ever disclosed your personal data or personal data of your family (names, contacts, passport details, identification numbers, medical reports, etc.) without your consent or permission? *

- Yes, they have
- No, they haven't
- Hard to say

Other:

Please indicate the source where you are getting information on the IDPs' rights? *

- Ukrainian television
- Russian television
- Radio
- Free newspapers
- Newspapers you can buy or subscribe to
- Magazines
- Internet (except for the social networks)
- Local government officials
- Social Leaders
- Religious leaders
- Relatives and friends
- Facebook
- V Kontakte

- Odnoklassniki.ru
- Twitter
- Information desks of governmental institutions and municipal authorities
- NGOs hotline
- Governmental institutions hotline
- I do not get any information
- Hard to say

Other:

Did you go to the law to protect your rights as an IDP? (In case you didn't – proceed to the end of the questionnaire and send it for further processing) *

- Yes, I did
- No, I didn't

Did you apply to the Legal Aid Center? *

- Yes, I did and I got free legal assistance
- Yes, I did but I was refused legal assistance
- No, I didn't because I didn't know I could have done so
- No, I didn't because I didn't need it

Other:

If the Legal Aid Center refused to provide you with legal assistance please describe the reason for refusal

Your answer

Please specify what rights of yours had to be protected by the court?

- Registration as an IDP
- Freedom of movement (overpassing the "contact line")
- Renewal/ preparation of ID documents
- Receiving social aid
- Receiving/renewal/claiming for a pension
- Labor rights
- Right to free temporary housing
- Access to the information about my rights as an IDP
- Right to education (incl. my family members' rights)

- Voting rights

Other:

Have you had success asserting your rights?

- Yes, I've had success
- I've had occasional success
- The case hearing is still underway
- I was denied of justice because the lawsuit had been filed in the wrong jurisdiction
- No, I haven't had success although the case was investigated by court
- Hard to say

Did you pay court fees?

- Yes, I did and I assume the court fee amount was acceptable
- Yes, I did. The court fee amount was burdensome for me but it was possible to pay by installments
- No, I didn't because I was exempted from the court fees

Other:

Did the judge ask you to itemize your claims?

- No, he didn't
- Yes, he did but I assumed that my claims had been correct
- Yes, he did and I itemized my claims myself
- Yes, he did and he gave me an advice on itemizing my claims. I followed the judge's advice

Other:

Did the court decide on all the issues of your lawsuit?

- Yes, the case was decided completely in my favor
- No, not all the issues were decided in my favor
- The court issued a judgment beyond my complaints and ordered the defendant to commit actions I had not claimed for

Other:

Was the case investigated only based upon the evidence provided by you and the defendant?

- The case was decided based upon the proof provided by the plaintiff in the lawsuit and in the defense statement
- The case was decided based upon the proof provided by the plaintiff in the lawsuit, in the defense statement and in the evidence additionally disclosed by the litigants at the request of the court

Other:

Were you required by the court to disclose additional proof for your claims?

- No, I wasn't
- Yes, I was but I assumed that my proof had been sufficient to resolve the case
- Yes, I was and I provided new proof at the request of the court

Other:

Did the court require more relevant proof that was necessary to resolve the case?

- Yes, it did
- No, it didn't

Other:

Did the case proceed in open court?

- Yes, it did. The hearing was conducted at the courtroom with enough space for everyone who wanted to attend it

Other:

Please specify the timeframe between the day you filed the lawsuit and the day you got a copy of the original jurisdiction judgment?

- Up to 1 month
- Up to 2 months

Other:

Do you think this timeframe was reasonable and your case was decided by the court of original jurisdiction without unreasonable delay?

- The timeframe was reasonable
- The timeframe could be considered reasonable but it was a long stretch. The hearings were lengthy due to defendant's actions
- The timeframe was unreasonable due to the court. There were lengthy delays for hearings that the court was unwilling to shorten

Other:

Did the court announce the decision in open session to the litigants and other people who were present in the courtroom during the announcement?

- The court announced full decision in open session
- The court announced full decision but only the litigants had been allowed to the courtroom
- The court didn't announce the decision, the clerk of court notified me about the date when I could have got the copy of the judgment

Other:

Please specify the timeframe between the day of decision announcement and day you obtained the copy of the judgment?

- Up to 10 days
- From 10 days to 1 month

Other:

Did the court issue an amended judgment upon your claims?

- No, it didn't since all the issues involved in the lawsuit were resolved
- Yes, it did upon my application since some of the issues involved in the lawsuit had not been resolved
- Yes, it did upon my application since there were no orders on enforcement in the judgment
- Yes, it did upon my application since there were no orders on court fees in the judgment

Other:

Did you file an application for clarification of any particular issues of the judgment?

- No, I didn't

- Yes, I did. The matter was resolved and the judgment was announced to me. I obtained a copy of the judgment shortly after it was announced
- Yes, I did and a copy of the judgment was posted to me within 10 days
- Yes, I did but I'm still unaware of any actions conducted by the court upon my application

Other:

Did you file an appeal to a higher court in your case?

- Yes, I did
- No, I didn't

Please specify the timeframe between the day you filed an appeal and the day you obtained a copy of the appeals court judgment?

- Up to 1 month
- Up to 2 months

Other:

Has the final judgment in your case been satisfied?

- Yes, it has been satisfied
- No, it hasn't been satisfied

Other:

Did you apply to the Enforcement agency to collect the final judgment in your case?

- Yes, I did
- No, I didn't

Other:

Please specify the timeframe between the day you obtained a copy of the final judgment in your case and the day of its actual satisfaction?

- Up to 1 month
- Up to 2 months

Other:

Please specify the timeframe between the day you filed a lawsuit and the day of satisfaction of the final judgment?

- Up to 1 month
- Up to 2 months
- Up to 6 months

Other:

Do you think that the timeframe between the day you filed a lawsuit and the day of the final judgment satisfaction was reasonable, thus the hearing and the enforcement proceeded without unreasonable delays?

- Yes, the timeframe was reasonable
- The timeframe could be considered reasonable but it was a long stretch. It was lengthy due to the defendant's actions
- The timeframe was unreasonable due to the court. There were lengthy delays for hearings that the court was unwilling to shorten

Other:

Do you know how to act to get reimbursed for damage caused by unreasonably long hearings and/or enforcement procedures?

- Yes, I do know and I will take all necessary actions
- No, I don't know but I'm going to seek advice from the Legal Aid Center

Other:

SEND

Appendix²

**Questionnaire on the internally displaced persons (IDPs)
for nongovernmental organizations (NGOs)**

Questionnaire on the internally displaced persons (IDPs) for nongovernmental organizations (NGOs)

*** Required field**

Name of the NGO *

Your answer

NGO's office location

Your answer

NGO's activity areas *

- Education
- Scientific research
- Volunteer and humanitarian activities
- Human rights
- Social and cultural projects

Other:

Please specify when your organization started with human rights projects? *

Your answer

Please specify the experience of your organization in IDP assistance or human rights protection *

Your answer

Is your organization aware of the systematic problems or violations of IDPs' rights related to the procedures of obtaining/preparation of the registration documents? *

- Yes, we know about the problems and the violations of the IDPs' rights related to the procedures of preparation/renewal of IDP certificates?

- Yes, we know about the problems and the violations of the IDPs' rights related to the procedures of obtaining/preparation of the ID documents?
 - No, we are unaware of these facts
- Other:

In case IDPs ever applied to your organization for solution of the problems related to the procedures of obtaining/preparation of the IDP certificates please specify what the problems were about?

Your answer

In case the IDPs ever applied to your organization for solution of the problems related to the ID documents preparation please specify what the problems were about?

Your answer

Are there any other known problems or violations of the IDPs' rights related to the procedures of obtaining/preparation of the registration documents? Please provide details

Your answer

Is your organization aware of the systematic problems or violations of the IDPs' rights related to the social standards upholding? *

- Yes, we know about the systematic problems and violations of the IDPs' rights that secure free temporary housing
- Yes, we know about the systematic problems and violations of the IDPs' rights that secure free healthcare assistance
- Yes, we know the facts of poor medical care of the IDPs
- Yes, we know about the systematic problems and violations of the IDPs' rights that secure social aid
- Yes, we know about the systematic problems and violations of the IDPs' pension rights
- No, we are unaware of those facts

Other:

Are there any other known problems or violations of the IDPs' rights to the social standards upholding? Please provide details

Your answer

Do you think that the problem of free temporary housing for IDPs is serious enough? *

- Yes, definitely
- I assume yes
- Rather not
- Definitely not
- Hard to say

Other:

Are there any known facts that the IDPs were denied medical treatment either because of their IDP status or because they haven't got registration of permanent residence?

- Yes, there are
- No, there aren't

Other:

In case your organization is aware of the facts that IDPs were denied medical treatment please specify the reasons for such denial.

Your answer

How could you evaluate the quality of medical care of IDPs in the healthcare institutions? *

- Completely satisfactory
- Rather satisfactory
- Rather not satisfactory
- Not satisfactory at all
- Hard to say

Other:

If the IDPs ever contacted your organization because of the violation of their rights to social aid (except for the pension) please specify details.

Your answer

If the IDPs ever contacted your organization because of the violation of their pension rights, please provide details.

Your answer

Is your organization aware of any difficulties or restrictions of the IDPs' rights to freedom of movement? *

- Yes, there are some known problems of IDPs overpassing the contact line in the Donetsk and Luhansk regions
- Yes, there are some known problems of IDPs overpassing the administrative border with the Crimea
- Yes, some problems occur when IDPs travel across the territory of Ukraine
- No, we are unaware of those facts

Other:

If the IDPs ever contacted your organization because of the troubles with overpassing the contact line or the administrative border with the Crimea please specify what the problem was about in detail

Your answer

Is your organization aware of any other problems or restrictions of the IDPs' rights to freedom of movement? *

Your answer

Is your organization aware of the systematic problems or violations of labor rights of the IDPs?*

- Yes, we know about the difficulties the IDPs experience upon seeking a job
- Yes, we know about the difficulties the IDPs experience upon contacting the State Placement Service
- No, we are unaware of those facts

Other:

Is your organization aware of other problems or violations of labor rights of the IDPs? Please provide details

Your answer

How could you evaluate the situation with employment of IDPs in your region today? *

- There is no employment problem with IDPs
- The problem exists but it's not pressing
- The problem of employment of the IDPs is greatly pressing
- Hard to say

Other:

If IDPs ever contacted your organization because of abuse of their rights to education, please provide details.

Your answer

Is your organization aware of the facts that the IDPs were being deprived of their rights to peaceful assembly? *

- Yes, it is
- No, it isn't

Other:

If there are any known facts of violations of the IDPs' rights to peaceful assembly, please provide more details *

Your answer

Do you assume that the voting rights of IDPs are being violated in Ukraine? *

- Yes
- No

Other:

If the voting rights of IDPs are being abused in Ukraine, please provide more details on such violations

Your answer

Do you think that the voting rights are currently crucial for IDPs? *

- Absolutely crucial
- Relatively important
- Rather unimportant
- Not crucial at all

- Hard to say

Other:

If there are any known facts of court judgments in suffrage cases won by the IDPs, please provide details on such cases

Your answer

- Are there any known facts of systematic problems or violations of the IDPs' rights to a fair trial? *
- Yes, we know about unreasonable dismissals of lawsuits filed by the IDPs?
- Yes, we know about the difficulties that the IDPs encounter upon collecting evidence
- Yes, we know the facts of unduly delayed justice in the IDPs' cases
- Yes, we know the facts of unsatisfied court judgments in the cases won by the IDPs
- No, we are unaware of those facts

Other:

Are there any known facts of any other problems or violations of the IDPs' rights to a fair trial? Please provide details

Your answer

Is your organization aware of the facts that the IDPs were restricted to their access to justice? *

- Yes, we know about the violations of the open court principle in the IDPs' cases
- Yes, we know about the problems related to the access to justice of the IDPs (remoteness of the courts, unaffordable court expenses, lack of facilities at the courts to do justice)
- Yes, we know about the problems that the IDPs encounter when they have to pay court fees
- No, we are unaware of those facts

Other:

Are there any other known facts that the IDPs were restricted to their access to justice? Please provide details.

Your answer

Is your organization aware of the problems that IDPs encounter when requesting for free legal aid? *

- Yes
 No

Other:

Please provide details on the problems that the IDPs encounter when requesting for free legal aid?

Your answer

In case you know the facts that the IDPs were exempted from the court fees, allowed to pay the court fees by installments, granted a court fee deferral or reduction, please provide details

Your answer

In case you know about the problems the IDPs encountered upon filing petitions with a court to establish facts of birth and death, please provide details.

Your answer

Is your organization aware of the problems related to the lack of access of IDPs to the information on their rights? *

- Yes, we know that the media sources on IDPs' rights are limited
 Yes, we know that the media content on IDPs' rights is relatively poor
 No, we are unaware of those facts

Other:

Are there any other known problems related to the access of information on IDP rights? Please provide details.

Your answer

How can you evaluate the quality (clarity, relevance, completeness) of information on IDPs' rights available in your region? *

- Completely satisfactory
 Rather satisfactory

- Rather not satisfactory
 Not satisfactory at all
 Hard to say

Other:

What do you think are the most effective information sources on IDP rights? *

- Internet
 Media
 Governmental institutions and local governments
 Social environment
 Volunteer and human rights organizations
 IDP hotlines

Other:

Please specify how your organization spreads information on the implementation of IDP rights?

Your answer

Are there any known facts of abuse of the IDPs' rights to personal data protection? *

- Yes, we know about the facts of unlawful collection, processing and use of the IDPs' personal data by the governmental institutions
 Yes, we know about the facts of unlawful collection, processing and use of the IDPs' personal data by the individuals
 No, we are unaware of those facts

Other:

Are there any other known facts of abuse of the IDPs' rights to protect personal data? Please provide details.

Your answer

If your organization has got any information on the IDPs taking measures to protect their personal data which include filing lawsuits, petitions the

Ukrainian Parliament Commissioner for Human Rights, applying for law enforcement, please provide details.

Your answer

How could you evaluate the activity of the executive bodies and local governments in solving the problems of IDPs within their jurisdiction? *

- Positively
- Problems of IDPs are ignored by these institutions
- Negatively

Other:

Is your organization aware of the problems of IDPs' access to psychological assistance?*

- Yes, we know the facts of poor psychological assistance.
- Yes, we know about the limited availability of psychological assistance.
- No, we are unaware of those facts

Other:

Are there any other known problems of IDPs' access to psychological assistance? Please provide details.

Your answer

Do you think that IDPs experience problems of cultural or psychological adaptation Ukraine? *

- Yes, they do
- No, they don't

Other:

If they do, please provide details

Your answer

SEND

Appendix³

**Questionnaire on the internally displaced persons (IDPs)
for local governments**

Questionnaire on the internally displaced persons (IDPs) for local governments

*** Required field**

Please specify the local government you represent *

Your answer

Please specify your own experience or the experience of your municipality on the IDP social assistance and protection of their rights? *

Your answer

Have you experienced any management changes in your organization with the emergence of internally displaced persons (IDPs)? *

- There have been no changes, we keep working like before
- The number of employees has increased
- Specific employees were assigned who work exclusively with the IDPs' issues
- Individual procedures/reception days (hours) were determined for the IDPs
- Special reception order for IDPs
- IDPs are allowed regardless of the waiting list
- The workload has increased but neither staff list nor operating schedule have changed
- Hard to say

Other:

Do you think that the number of employees assigned to work with IDPs in your organization is adequate? *

- Yes, the number of employees is adequate and we can handle our duties within the working hours
- In general we have enough staff although sometimes we stay behind at the office

- We don't have enough staff but it has nothing to do with IDPs
- We don't have enough staff because we are now responsible for IDPs
- Hard to say

Other:

Is your organization aware of the systematic problems or violations of the IDPs' rights related to the procedures of obtaining/preparation of the registration documents? *

- Yes, we know about the problems and the violations of the IDPs' rights related to the procedures of preparation/renewal of the IDP certificates?
- Yes, we know about the problems and the violations of the IDPs' rights related to the procedures of obtaining/preparation of the ID documents?
- No, we are unaware of these facts

Other:

In case IDPs ever applied to your organization for solution of the problems related to the ID documents preparation please specify what the problems were about?

Your answer

Are there any other known problems or violations of the IDPs' rights related to the procedures of obtaining/preparation of the registration documents?

Please provide details

Your answer

Is your organization aware of the systematic problems or violations of the IDPs' rights related to the social standards upholding? *

- Yes, we know about the systematic problems and violations of the IDPs' rights that secure free temporary housing
- Yes, we know about the systematic problems and violations of the IDPs' rights that secure free healthcare assistance
- Yes, we know the facts of poor medical care of IDPs
- Yes, we know about the systematic problems and violations of the IDPs' rights that secure social aid

- Yes, we know about the systematic problems and violations of the IDP pension rights
- No, we are unaware of these facts
- Other:

Are there any other known problems or violations of the IDPs' rights to the social standards upholding? Please provide details

Your answer

Do you think that the problem of free temporary housing for IDPs is serious enough? *

- Yes, definitely
- I assume yes
- Rather not
- Definitely not
- Hard to say
- Other:

Are there any known facts that IDPs were denied medical treatment either because of the IDP status or because they haven't got registration of permanent residence?

- Yes, there are
- No, there aren't
- Other:

In case your organization is aware of the facts that IDPs were denied medical treatment, please specify the reasons for such denial.

Your answer

How could you evaluate the quality of medical care of IDPs in the healthcare institutions? *

- Completely satisfactory
- Rather satisfactory
- Rather not satisfactory
- Not satisfactory at all

- Hard to say
- Other:

If IDPs ever contacted your organization because of the violation of their rights to social aid (anything but pension), please provide details.

Your answer

If the IDPs ever contacted your organization because of the violation of their pension rights, please provide details.

Your answer

Is your organization aware of any difficulties or restrictions of the IDPs' rights to freedom of movement? *

- Yes, there are some known problems of IDPs overpassing the contact line in the Donetsk and Luhansk regions
- Yes, there are some known problems of IDPs overpassing the administrative border with the Crimea
- Yes, there are some known problems when IDPs travel across the territory of Ukraine
- No, we are unaware of those facts
- Other:

If IDPs ever contacted your organization because of the troubles with overpassing the contact line or the administrative border with the Crimea, please specify what the problem was about in detail

Your answer

Is your organization aware of any other problems or restrictions of the IDPs' rights to freedom of movement? *

Your answer

Is your organization aware of the systematic problems or violations of labor rights of the IDPs? *

- Yes, we know about the difficulties the IDPs experience upon seeking a job
- Yes, we know about the difficulties the IDPs experience upon contacting the State Placement Service

- No, we are unaware of these facts

Other:

Is your organization aware of other problems or violations of labor rights of the IDPs? Please provide details

Your answer

How could you evaluate the situation with employment of IDPs in your region today? *

- There is no employment problem with the IDPs
 The problem exists but it's not pressing
 The problem of employment of IDPs is greatly pressing
 Hard to say

Other:

Is your organization aware of the facts that the IDPs were being deprived of their rights to peaceful assembly? *

- Yes, it is
 No, it isn't

Other:

If there are any known facts of violations of the IDPs' rights to peaceful assembly please provide more details *

Your answer

Do you assume that the voting rights of the IDPs are being violated in Ukraine? *

- Yes
 No

Other:

If the voting rights of the IDPs are being abused in Ukraine, please provide more details on such violations

Your answer

Do you think that the voting rights are currently crucial for IDPs? *

- Absolutely crucial
 Relatively important
 Rather unimportant
 Not crucial at all
 Hard to say

Other:

If there are any known facts of court judgments in suffrage cases won by the IDPs, please provide details on such cases

Your answer

Are there any known facts of unreasonable dismissals of lawsuits filed by the IDPs? *

- Yes, we know about the difficulties that IDPs encounter upon collecting evidence
 Yes, we know the facts of unduly delayed justice in the IDPs' cases
 Yes, we know the facts of unsatisfied court judgments in the cases won by the IDPs
 No, we are unaware of those facts

Other:

Are there any known facts of any other problems or violations of the IDPs' rights to a fair trial? Please provide details

Your answer

Is your organization aware of the facts that the IDPs were restricted to their access to justice? *

- Yes, we know about the violations of the open court principle in the IDPs' cases
 Yes, we know about the problems related to the access to justice of the IDPs (remoteness of the courts, unaffordable court expenses, lack of facilities at the courts to do justice)
 Yes, we know about the problems that IDPs encounter when they have to pay court fees
 No, we are unaware of those facts

Other:

Are there any other known facts that the IDPs were restricted to their access to justice? Please provide details.

Your answer

Is your organization aware of the problems that IDPs encounter when requesting for free legal aid? *

- Yes
 No

Other:

Please provide details on the problems that IDPs encounter when requesting for free legal aid?

Your answer

In case you know the facts that the IDPs were exempted from the court fees, allowed to pay the court fees by installments, granted a court fee deferral or reduction, please provide details

Your answer

In case you know about the problems that the IDPs encountered upon filing petitions with a court to establish facts of birth and death please, provide details.

Your answer

Is your organization aware of the problems related to the lack of access of the IDPs to the information on their rights? *

- Yes, we know that the media sources on the IDPs' rights are limited
 Yes, we know that the media content on the IDPs' rights is relatively poor
 No, we are unaware of those facts

Other:

Are there any other known problems related to the access of information on IDPs' rights? Please provide details.

Your answer

How could you evaluate the quality (clarity, relevance, completeness) of information on IDPs' rights available in your region? *

- Completely satisfactory
 Rather satisfactory
 Rather not satisfactory
 Not satisfactory at all
 Hard to say

Other:

What do you think are the most effective information sources on IDPs' rights? *

- Internet
 Media
 Governmental institutions and local governments
 Social environment
 Volunteer and human rights organizations
 IDP hotlines

Other:

Please specify how your organization spreads information on the implementation of IDPs' rights?

Your answer

Are there any known facts of abuse of the IDPs' rights to personal data protection? *

- Yes, we know about the facts of unlawful collection, processing and use of the IDPs' personal data by the governmental institutions
 Yes, we know about the facts of unlawful collection, processing and use of the IDPs' personal data by the individuals
 No, we are unaware of those facts

Other:

Are there any other known facts of abuse of the IDPs' rights to protect personal data? Please provide details.

Your answer

If your organization has got any information on the IDPs taking measures to protect their personal data which include filing lawsuits, petitions the Ukrainian Parliament Commissioner for Human Rights, applying for law enforcement, please provide details.

Your answer

How could you evaluate the activity of the executive bodies and local governments in solving the problems of the IDPs within their jurisdiction? *

- Positively
- Problems of IDPs are ignored by these institutions
- Negatively

Other:

Is your organization aware of the problems of the IDPs' access to psychological assistance?*

- Yes, we know the facts of poor psychological assistance.
- Yes, we know about the limited availability of psychological assistance.
- No, we are unaware of those facts

Other:

Are there any other known problems of the IDPs' access to psychological assistance? Please provide details.

Your answer

Do you think that the IDPs experience problems of cultural or psychological adaptation in Ukraine? *

- Yes, they do
- No, they don't

Other:

If they do, please provide details

Your answer

SEND

Appendix⁴

**Questionnaire on the internally displaced persons (IDPs)
for executive bodies**

Questionnaire on the internally displaced persons (IDPs) for executive bodies

*** Required field**

Enter your first and second name (optional)

Your answer

The executive body you represent (please specify full name) *

Your answer

Your position in the organization (optional)

Your answer

Specify your gender *

- Male
 Female
 Other

How long have you been working in the executive bodies? *

- Less than a year
 From 1 to 3 years
 From 3 to 5 years
 Over 5 years

Other:

Please describe your duties in the executive body *

Your answer

Have you experienced any management changes in your organization with the emergence of internally displaced persons (IDPs)? *

- There have been no changes, we keep working like before
 The number of employees has increased
 Specific employees were assigned who work exclusively with IDPs' issues
 Individual procedures/reception days (hours) were determined for IDPs
 Special reception order for IDPs
 IDPs are allowed regardless of the waiting list
 The workload has increased but neither staff list nor operating schedule have changed
 Hard to say

Other:

Required field

- Do you think that the number of employees assigned to work with IDPs in your organization is adequate? *
 Yes, the number of employees is adequate and we can handle our duties within the working hours
 In general we have enough staff although sometimes we stay behind at the office
 We don't have enough staff but it has nothing to do with IDPs
 We don't have enough staff because we are now responsible for IDPs
 Hard to say

Other:

Have there ever happened the situations when internally displaced persons were unable to obtain public service? *

- Never
 Rarely
 Often
 Constantly
 Previously yes but currently not
 Hard to say

Other:

For what reason the internally displaced persons did not obtain public service?

Your answer

Is your organization aware of the systematic problems or violations of the IDPs' rights related to the procedures of obtaining/preparation of the registration documents? *

- Yes, we know about the problems and the violations of the IDPs' rights related to the procedures of preparation/renewal of the IDP certificates?
- Yes, we know about the problems and the violations of the IDPs' rights related to the procedures of obtaining/preparation of the ID documents?
- No, we are unaware of these facts

Other:

In case IDPs ever applied to your organization for solution of the problems related to the ID documents preparation please specify what the problems were about?

Your answer

Are there any other known problems or violations of the IDPs' rights related to the procedures of obtaining/preparation of the registration documents? Please provide details

Your answer

Is your organization aware of the systematic problems or violations of the IDPs' rights related to the social standards upholding? *

- Yes, we know about the systematic problems and violations of the IDPs' rights that secure free temporary housing
- Yes, we know about the systematic problems and violations of the IDPs' rights that secure free healthcare assistance
- Yes, we know the facts of poor medical care of IDPs
- Yes, we know about the systematic problems and violations of the IDPs' rights that secure social aid
- Yes, we know about the systematic problems and violations of the IDPs' pension rights

- No, we are unaware of those facts

Other:

Are there any other known problems or violations of the IDPs' rights to the social standards upholding? Please provide details

Your answer

Do you think that the problem of free temporary housing for IDPs is serious enough? *

- Yes, definitely
- I assume yes
- Rather not
- Definitely not
- Hard to say

Other:

Are there any known facts that IDPs were denied medical treatment either because of the IDP status or because they haven't got registration of permanent residence?

- Yes, there are
- No, there aren't

Other:

In case your organization is aware of the facts that IDPs were denied medical treatment, please specify the reasons for such denial.

Your answer

How could you evaluate the quality of medical care of IDPs in the healthcare institutions? *

- Completely satisfactory
- Rather satisfactory
- Rather not satisfactory
- Not satisfactory at all
- Hard to say
- Other

If IDPs ever contacted your organization because of the violation of their rights to social aid (except for the pension), please provide details.

Your answer

If IDPs ever contacted your organization because of the violation of their pension rights, please provide details.

Your answer

Is your organization aware of any difficulties or restrictions of the IDPs' rights to freedom of movement? *

- Yes, there are some known problems of IDPs overpassing the contact line in the Donetsk and Luhansk regions
- Yes, there are some known problems of IDPs overpassing the administrative border with the Crimea
- Yes, there are some known problems when IDPs travel across the territory of Ukraine
- No, we are unaware of those facts

Other:

If IDPs ever contacted your organization because of the troubles with overpassing the contact line or the administrative border with the Crimea, please specify what the problem was about in detail

Your answer

Is your organization aware of any other problems or restrictions of the IDPs' rights to freedom of movement? *

Your answer

Is your organization aware of the systematic problems or violations of labor rights of the IDPs? *

- Yes, we know about the difficulties the IDPs experience upon seeking a job
- Yes, we know about the difficulties the IDPs experience upon contacting the State Placement Service
- No, we are unaware of those facts

Other:

Is your organization aware of other problems or violations of labor rights of the IDPs? Please provide details

Your answer

How could you evaluate the situation with employment of IDPs in your region today? *

- There is no employment problem with the IDPs
- The problem exists but it's not pressing
- The problem of employment of IDPs is greatly pressing
- Hard to say

Other:

- Is your organization aware of the facts that the IDPs were being deprived of their rights to peaceful assembly? *
- Yes, it is
- No, it isn't

Other:

If there are any known facts of violations of the IDPs' rights to peaceful assembly, please provide more details *

Your answer

Do you assume that the voting rights of the IDPs are being violated in Ukraine? *

- Yes
- No

Other:

If the voting rights of the IDPs are being abused in Ukraine please, provide more details on such violations

Your answer

Do you think that the voting rights are currently crucial for IDPs? *

- Absolutely crucial
- Relatively important
- Rather unimportant

Not crucial at all

Hard to say

Other:

If there are any known facts of court judgments in suffrage cases won by the IDPs, please provide details on such cases

Your answer

Are there any known facts of systematic problems or violations of the IDPs' rights to a fair trial? *

Yes, we know about unreasonable dismissals of lawsuits filed by the IDPs'

Yes, we know about the difficulties that IDPs encounter upon collecting evidence

Yes, we know the facts of unduly delayed justice in the IDPs' cases

Yes, we know the facts of unsatisfied court judgments in the cases won by the IDPs

No, we are unaware of those facts

Other:

Are there any known facts of any other problems or violations of the IDPs' rights to a fair trial? Please provide details

Your answer

Is your organization aware of the facts that the IDPs were restricted to their access to justice? *

Yes, we know about the violations of the open court principle in the IDPs' cases

Yes, we know about the problems related to the access to justice of the IDPs (remoteness of the courts, unaffordable court expenses, lack of facilities at the courts to do justice)

Yes, we know about the problems that IDPs encounter when they have to pay court fees

No, we are unaware of those facts

Other:

Are there any other known facts that the IDPs were restricted to their access to justice? Please provide details.

Your answer

Is your organization aware of the problems that IDPs encounter when requesting for free legal aid? *

Yes

No

Other:

Please provide details on the problems that IDPs encounter when requesting for free legal aid?

Your answer

In case you know the facts that the IDPs were exempted from the court fees, allowed to pay the court fees by installments, granted a court fee deferral or reduction, please provide details

Your answer

In case you know about the problems that the IDPs encountered upon filing petitions with a court to establish facts of birth and death, please provide details.

Your answer

Is your organization aware of the problems related to the lack of access of the IDPs to the information on their rights? *

Yes, we know that the media sources on the IDPs' rights are limited

Yes, we know that the media content on the IDPs' rights is relatively poor

No, we are unaware of those facts

Other:

Are there any other known problems related to the access of information on IDPs' rights? Please provide details.

Your answer

How could you evaluate the quality (clarity, relevance, completeness) of information on IDPs' rights available in your region? *

- Completely satisfactory
- Rather satisfactory
- Rather not satisfactory
- Not satisfactory at all
- Hard to say

Other:

What do you think are the most effective information sources on IDPs' rights? *

- Internet
- Media
- Governmental institutions and local governments
- Social environment
- Volunteer and human rights organizations
- IDP hotlines

Other:

Please specify how your organization spreads information on the implementation of IDPs' rights?

Your answer

Are there any known facts of abuse of the IDPs' rights to personal data protection? *

- Yes, we know about the facts of unlawful collection, processing and use of the IDPs' personal data by the governmental institutions
- Yes, we know about the facts of unlawful collection, processing and use of the IDPs' personal data by the individuals
- No, we are unaware of those facts

Other:

Are there any other known facts of abuse of the IDPs' rights to protect personal data? Please provide details.

Your answer

If your organization has got any information on the IDPs taking measures to protect their personal data which include filing lawsuits, petitions the Ukrainian Parliament Commissioner for Human Rights, applying for law enforcement, please provide details.

Your answer

How could you evaluate the activity of the executive bodies and local governments in solving the problems of the IDPs within their jurisdiction? *

- Positively
- Problems of IDPs are ignored by these institutions
- Negatively

Other:

Is your organization aware of the problems of the IDPs' access to psychological assistance?*

- Yes, we know the facts of poor psychological assistance.
- Yes, we know about the limited availability of psychological assistance.
- No, we are unaware of those facts

Other:

Are there any other known problems of the IDPs' access to psychological assistance? Please provide details.

Your answer

Do you think that IDPs experience problems of cultural or psychological adaptation Ukraine? *

- Yes, they do
- No, they don't

Other:

If they do, please provide details

Your answer

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