

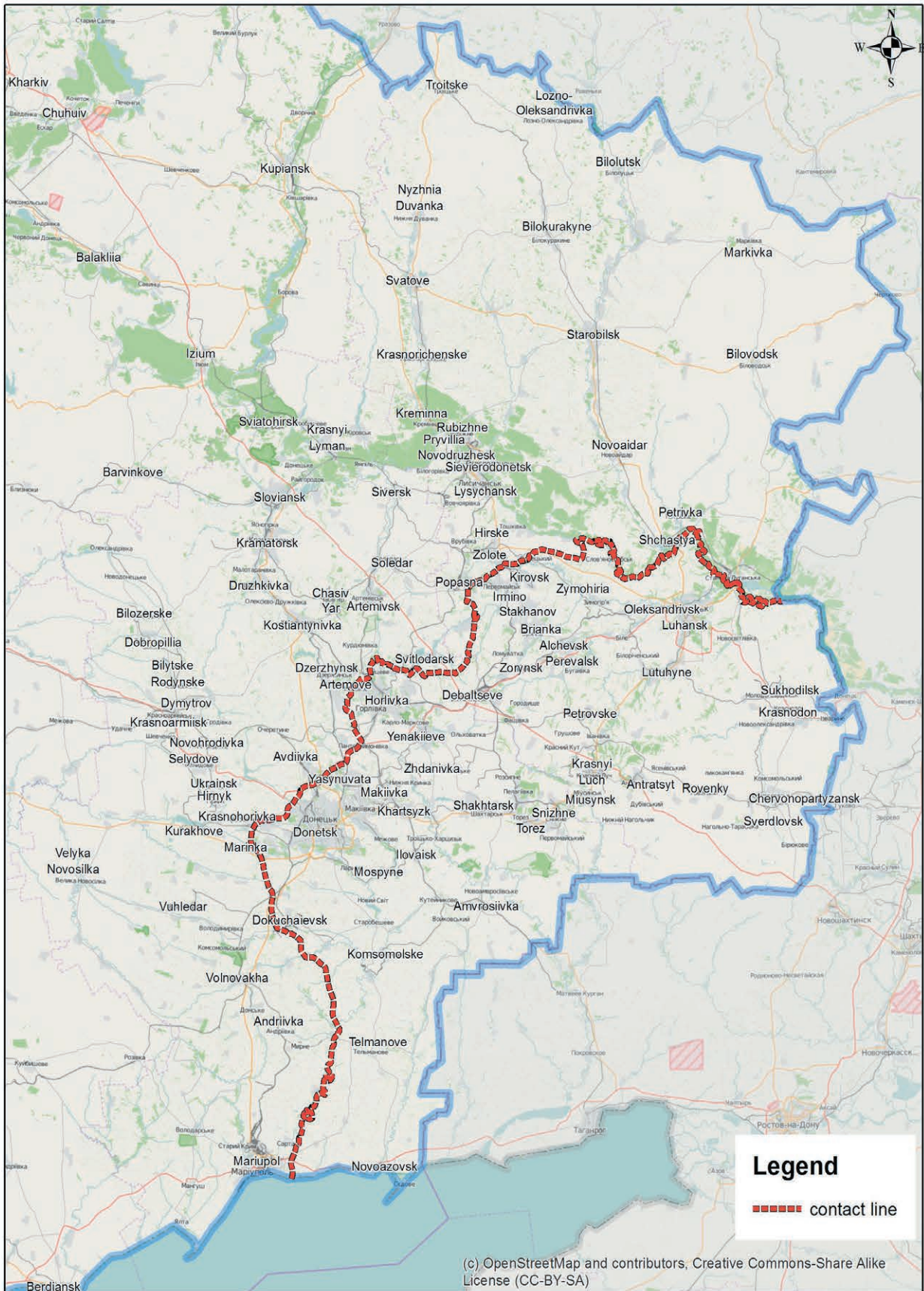
HOUSING, LAND AND PROPERTY RIGHTS OF DISPLACED AND CONFLICT-AFFECTED COMMUNITIES IN EASTERN UKRAINE

January 2016

NRC

NORWEGIAN
REFUGEE COUNCIL





Map Sources: ESRI, OSM. Map created in Nov 2015
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EXECUTIVE SUMMARY¹

BACKGROUND

This document represents the executive summary of the full report. The study was commissioned by the Norwegian Refugee Council (NRC) to assess issues relating to the housing, land and property (HLP) rights of internally displaced persons (IDPs) and conflict-affected communities in eastern Ukraine. The assessment covers government controlled areas (GCA), non-government controlled areas (NGCA) and frontline communities along the contact line between GCA and NGCA.

The research for the report was conducted during two field missions in July and August 2015. This included 32 key informant interviews, focus group discussions with 140 IDPs and conflict-affected individuals, and the collection of 50 case studies.

HUMANITARIAN CONTEXT

As of November 2015, there were some 4 million people affected by conflict in eastern Ukraine. This includes an estimated 2.7 million people living in NGCA and 800'000 people living in frontline communities along the contact line (in GCA and NGCA). According to the Ministry of Social Policy there were over 1.5 million registered IDPs as of November 2015.² However, due to Government restrictions on the definition of an IDP, the true number of IDPs is unknown.³

Conflict and displacement have disproportionately affected women in Ukraine where they comprise 63 percent of IDPs.⁴ Many IDPs families are female-headed and women also bear a much larger burden than men in roles as carers for children, the sick and elderly. The majority of frontline community residents are women and older people who risk

remaining in insecure environments as they cannot afford to leave their homes or livelihoods.

This research has revealed gaps across a range of shelter and HLP issues which should be urgently addressed to prevent further deterioration in conditions for IDPs and conflict-affected communities.

CHALLENGES

HLP Challenges for IDPs in NGCA, GCA and frontline communities

HLP rights for IDPs in eastern Ukraine are at risk, especially for those with property in NGCA, amongst frontline communities, for non-registered IDPs and for IDPs renting accommodation.

Contradictory legal and policy framework

Since the outbreak of the conflict new legislation in the form of laws, temporary orders and Cabinet of Ministers' resolutions have been enacted, often very rapidly in order to address emerging internal displacement and conflict-related situations. Consequently, the legal framework relating to a range of IDPs issues, including HLP rights, is complex and has gaps in scope and application. Not all of the laws have been ratified and a number remain in draft form. Although most of the required provisions already exist in Ukraine's IDP law⁵, some are contradicted by previously adopted resolutions that are still widely applied. The continued application of the restricted definition of an IDP (see below) is one example of this.

1 Housing, Land and Property Rights of Displaced and Conflict-affected People in Eastern Ukraine Executive Summary was published in November 2015.

2 Ministry of Social Policy of Ukraine, online: http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=183396&cat_id=107177 [accessed: 17 November 2015].

3 IDMC (03 September 2015) Briefing Paper: Displacement figures in Ukraine fail to reflect a complex reality, www.internal-displacement.org/europe-the-caucasus-and-central-asia/ukraine/new-archive/displacement-figures-in-ukraine-fail-to-reflect-a-complex-reality

4 UN Women (07 October 2015) UN tackles gender and humanitarian impacts of Ukraine's eastern conflict. <http://eca.unwomen.org/en/news/stories/2015/10/ukraine-un-tackles-gender-and-humanitarian-impacts>

5 Law on Ensuring the Rights and Freedoms of Internally Displaced Persons (IDP Law) (adopted 20 October 2014 / enacted 22 November 2014):



Restricted definition of an IDP

Although Ukraine's IDP law defines IDPs as anyone who has had to leave their home as a result of the conflict, the interpretation of Ukrainian regulations in practice geographically restricts the definition of an IDP to people who have moved from NGCA to GCA. People who have fled their homes in GCA are therefore not entitled to register. This is inconsistent with the definition of an IDP as set out in international law: *The Guiding Principles on Internal Displacement*⁶ define an IDP as anyone who has been forced to flee their home and who has not crossed an internationally recognised State border.⁷

A similar limitation exists in draft law No. 2167,⁸ which has been designed to establish a legal basis through which compensation processes and procedures can be developed. It is also limited in its scope as it applies to registered IDPs but does not extend to all internally displaced persons (as explained above) in contradiction of international law.⁹

Lack of sufficient and adequate housing

There are chronic housing needs across the whole of Ukraine which have been amplified by displacement, with an acute shortage of adequate accommodation in the areas with the highest influx. Most IDPs rent accommodation or stay with friends and families. Those who cannot are housed in collective centres, resorts and sanatoriums allocated for temporary use by the municipal authorities. Much of this accommodation is not suited for winter conditions, lacking adequate heating and insulation. Collective centres, in particular, are overcrowded with inadequate facilities.

Fear of losing property in conflict-affected areas

It was reported that in April 2015 the *de facto* authorities in NGCA announced that property vacant for 45 days is subject to confiscation. Although this is not confirmed, IDPs interviewed for this research are concerned about the potential implications. Many are not able to return to NGCA due to the cost and travel time necessary. The Temporary Order of 21 January 2015 requiring an approved travel pass to cross between GCA and NGCA has also increased the bureaucratic hurdles for IDPs to make this journey.

For IDPs who have left behind property which is mortgaged, there is uncertainty over the continuation of mortgage repayments. In NGCA, Ukrainian banks have ceased to operate. Most IDPs interviewed were unaware of provisions under the Government's Temporary Measures to secure the rights of mortgagors for properties in NGCA, in the event of delayed payments. However, the Temporary Measures make no provision for suspension of repayments for properties located within GCA and frontline communities, or which have been damaged or destroyed during earlier offensives.

IDPs also reported concerns over losing social housing rights in NGCA for failing to pay utility bills *in absentia*. However some IDPs reported that they had been able to return to NGCA to secure a waiver from local authorities for the time they have been absent.

6 <http://www.ohchr.org/EN/Issues/IDPersons/Pages/Standards.aspx>

7 OCHA (2004) Introduction: Scope and Purpose (2), *The Guiding Principles on Internal Displacement* <http://www.brookings.edu/~media/Projects/idp/GPEnglish.pdf>

8 Right to Protection (2015) Draft Law 2167 on compensation of damaged property of internally displaced people. <http://issuu.com/veronikafomenko/docs/2167infographicseng>

9 OCHA et al (2007) *Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles*.

Military occupation of civilian property and mine/UXO contamination of farmland

The expropriation of property within frontline communities appears to be taking place in GCA, according to some respondents who reported losing access to their properties in these areas. Expropriation and occupation were reported to have occurred in relation to residential houses, business property and private agricultural lands. The extent of expropriations is not fully understood, however, in the reported incidents, no compensation, alternative accommodation or official documentation was provided to the owner. People in frontline communities also reported looting and damage to their property, in addition to being obliged to continue paying utility bills and mortgage repayments on their occupied dwellings. The extent to which expropriation is occurring in NGCA is not yet known.

Furthermore, the presence of landmines and unexploded ordnance (UXO) in areas near the contact line presents a significant risk to civilians.¹⁰ The Mine Action sub-cluster estimates that at least 30,000 hectares of land in eastern Ukraine may be contaminated.¹¹ Exposure to this hazard is expected to increase when land is cultivated next spring. The continued presence of mines and UXOs in farmland will also impact future return prospects, affecting access to property.

Lack of security of tenure for IDPs in rented accommodation

Over half of the IDPs in eastern Ukraine are living in rented accommodation.¹² As displacement continues this is the least sustainable option – rental payments deplete IDPs' capital, savings and assets. In Luhansk *oblast* approximately 65 percent of IDPs who rent were paying between UAH 250 and UAH 1,000 a month. Even at the lowest rate this represents more than half of an IDP's monthly allowance.

Across the region, 87.4 percent of IDPs renting have no lease agreement,¹³ leaving them vulnerable

to price increases and evictions. It was reported that the majority of landlords are unwilling to enter into rental agreements, preferring informal arrangements, because they fear that formalisation will result in their rental income being taxed, invite penalties for tax avoidance and open the door for quality checks and controls. Landlords were also reported to be concerned about the risk of being unable to get their tenants to leave and end up with non-paying squatters.

Some IDPs interviewed related experiences where landlords had only accepted them on condition that they did not register as IDPs. This situation creates a number of vulnerabilities for IDPs tenants who can end up renting low quality accommodation with no agreement on repairs or price hikes and who are vulnerable to eviction in the event that they fail to pay on time. IDPs who cannot register to access benefits are forced to use their savings and sell off assets to pay for the accommodation, which will have longer-term impacts on their coping mechanisms and return prospects.

Lack of access to legal services

Access to legal services is problematic for those living in NGCA, as well as for IDPs from NGCA who need to deal with property they left behind. The absence of functioning Ukrainian courts and notarial services means that any transactional or registration requirements involving property (i.e. sales, purchases, rentals, disputes and inheritance) need to be concluded by both parties within GCA, to be legally recognised by the Government. This entails considerable time, effort, expense and the negotiation of a lengthy and complex bureaucracy in applying for permission to obtain travel passes to cross the contact line.¹⁴

10 OCHA, Ukraine Humanitarian Bulletin, Issue 3, 1-31 October, 2015, http://reliefweb.int/sites/reliefweb.int/files/resources/humanitarian_bulletin_ukraine_-_issue_03.pdf

11 Ibid.

12 REACH/Shelter Cluster Ukraine (August 2015) Shelter and NFI Needs Assessment Report – Ukraine.

13 Based on a sample of 2,573 households

14 This process could also render inheritance claims problematic as probate requires the estate of a deceased person to be assessed, usually involving a physical inspection of any properties involved. However, amendments to certain legislative acts supplementary to the Temporary Measures remedy this problem. If the last place of residence of the testator lies in NGCA, then inheritance proceedings can be initiated anywhere in GCA, provided the property records are available. Notary Chamber of Ukraine, Inheritance. <http://npu.in.ua/en/for-the-population/documents-required-for-registration/inheritance#.Vh5f1mQrJxh>

ACKNOWLEDGEMENTS

Researched by Simon Harris.

This report would not have been possible without the support and involvement of the Norwegian Refugee Council (NRC) team members in both Severodonetsk and Kyiv. Special thanks are due to Miradije Hodza, Sarah Adamczyk, Nataliya Dymkovska, Tatiana Stepykina, Iuliia Tralo and Olena Protsovska.

Particular recognition is also due to the researcher who prefers to remain anonymous, but provided 20 insightful case studies from the non-government controlled areas of Luhansk *oblast*. Special acknowledgment is due to the administration of the Luhansk *oblast* and cities of Novotoshkivske, Novotoshkovskoe and Popasna, to OHCHR, UNHCR, OSCE, ICRC, Shelter Cluster, DRC, People in Need and Right to Protection and their staff who generously gave their time and provided information and expertise for this report.

Finally, NRC would like to extend its gratitude to all those displaced and conflict-affected individuals and families who participated in focus groups and interviews and shared their personal stories and experiences for this research.

This document covers humanitarian aid activities implemented with the financial assistance of the European Union and the Norwegian Ministry of Foreign Affairs. The contents of this document are the sole responsibility of the Norwegian Refugee Council (NRC) and the views expressed herein should not be taken, in any way, to reflect the official opinion of the European Union or the Norwegian Ministry of Foreign Affairs; neither the European Commission nor the Norwegian Ministry of Foreign Affairs are responsible for any use that may be made of the information it contains.

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ACRONYMS

CEDAW:	Convention on the Elimination of All Forms of Discrimination Against Women
GCA:	Government Controlled Areas
HLP:	Housing, Land and Property
ICESCR:	International Covenant on Economic, Social and Cultural Rights
ICLA:	Information, Counselling and Legal Assistance
ICRC:	International Committee of the Red Cross
IDP:	Internally Displaced Person
MoSP:	Ministry of Social Policy
NGCA:	Non-Government Controlled Areas
NRC:	Norwegian Refugee Council
OCHA:	Office for the Coordination of Humanitarian Affairs
OHCHR:	Office of the High Commissioner for Human Rights
OSCE:	Organisation of Security and Cooperation in Europe
UAH:	Ukrainian Hryvnia
UDHR:	Universal Declaration of Human Rights
UNECE:	United Nations Economic Commission for Europe
UNHCR:	United Nations High Commissioner for Refugees
USAID	United States Agency for International Development

INTRODUCTION

“ The owner of the flat in Lysychansk would not allow us to register as IDPs so we are not eligible for any social benefits. Many of the landlords in Lysychansk are frightened that they may face taxes or legal issues or that the tenants won't leave or won't pay if they are registered. After a few months we tried to register as IDPs, but the authorities would not let us. They said we were from Popasna district which is a government area, but we are from the part that is now controlled by the other side.”

Unregistered displaced women - NOVOTOSHKIVSKE



“ I have heard that the ‘LPR’ have issued a decree saying that if people don’t come back and ‘register’ their properties that they risk losing them. I am a pensioner and the return trip to Luhansk costs more than my monthly pension. I can’t afford to go but I can’t afford to lose my property either as I want to go back when there is peace.”

IDP Pensioner - KABYCHIVKA

“ It would be great to find some flat for a reasonable price to rent as we really need somewhere to live on our own as a family. The IDP hostel where we live is overcrowded and not that comfortable for a family of three to live in and the sanitary conditions certainly leave a lot to be desired. But it all depends on whether we can get enough money first of all. I have heard that some people who left Luhansk but still have flats and houses here are looking for decent families who would agree to live in their places and pay only utility bills. It would be great if we could get one of those.”

School Teacher - LUHANSK CITY - NGCA

“ We saved up and put a deposit on our dream apartment in Luhansk City a few years before the conflict started. The construction company built the shell but then stopped and disappeared. The government company that we got the loan through also disappeared. We were about to start legal proceedings when the fighting started and we became displaced. We have lost all of our savings, our home never got built and we can’t even go there anymore. We don’t know how to proceed.”

Young IDP couple - BILOVODSK

“ The army occupies my entire street. I’m not allowed to stay in my house anymore but they let me come each day to attend to my cucumbers and to do the cleaning. Yesterday they told me I had 3 days to pack up my things and after that I would not be allowed back. The soldiers said they were moving up some big equipment so civilians would not be permitted to enter the street any more.”

Elderly Woman - ZOLOTE-3 - GCA LUHANSK

These quotes from individual respondents interviewed during the field research for this report reveal how issues concerning housing, land and property rights (HLP) have a direct and very real impact on the lives of individuals and families. Their five different circumstances reflect just some of the main HLP rights issues facing displaced and conflict-affected people in Ukraine, including:

- Restrictions in the criteria for registering as an IDP in order to access housing benefits and the implications of not being registered;
- Questions of restitution and compensation for destroyed or damaged property;
- Lack of a long-term durable solutions policy for IDPs;
- Impact of militarisation on housing rights in communities along the contact line; and
- The lack of a functioning judicial system or access to legal provision in NGCA to address pre-conflict and current HLP rights cases.

1.1 OBJECTIVES OF THE REPORT

This study was commissioned by the Norwegian Refugee Council (NRC) to assess issues relating to the HLP rights of IDPs and conflict-affected communities in eastern Ukraine. It has a particular focus on NRC areas of operations in Kharkiv and Luhansk *oblasts* and covers government controlled areas (GCA), non-government controlled areas (NGCA) and frontline communities along the contact line between the GCA and NGCA.

The research aims to address a gap in the current knowledge relating to HLP rights amongst conflict-affected people in Ukraine. It aims to identify the key challenges facing displaced and conflict-affected communities in eastern Ukraine in exercising their HLP rights. This will result in a better understanding of the impact on HLP rights prior to the conflict as well as through all phases of the subsequent conflict induced displacement, including amongst vulnerable communities that have been unable or unwilling to leave their homes despite the risks and on-going hostilities.

The study seeks to provide initial qualitative information and insights that can inform the policies and practices of NRC, the HLP Technical Working Group, the Government of Ukraine, *de facto* authorities in the NGCA and other humanitarian actors. Research through the HLP lens will also allow NRC to gather information and generate analysis related to broader issues related to IDP registration.

This report has focused primarily on issues related to housing as these were raised as a priority by respondents. Broader issues related to agricultural and farming lands have not been included in as much detail and merit further investigation in the future.

1.2 BACKGROUND ON NRC PROGRAMME IN UKRAINE

Since the establishment of its office in Severodonetsk in January 2015, NRC has been working throughout Luhansk *oblast* to provide basic support to improve the living conditions of the most vulnerable conflict-affected populations through cross-sectoral assistance and protection. NRC began implementing relief operations in Ukraine in December 2014, providing much needed blankets, clothing, heaters and firewood to displaced people as support during the winter months. NRC also repairs houses that have been damaged as a result of the conflict. The NRC strategy has focused on addressing the needs of internally displaced people and host communities along the contact line in Luhansk *oblast* (both GCA and NGCA). In August 2015, NRC also established an office in Kharkiv *oblast*.

NRC's focus on HLP rights as part of their emergency response strategy stems from the recognition that violations of HLP rights are a common feature of most conflicts. HLP rights are instrumental in decreasing the vulnerabilities of displaced people and achieving a durable solution. For NRC, HLP is an integral component of its ICLA activities assisting displaced people to claim and fulfil their rights, reach durable solutions and prevent further displacement through the provision of information and access to free legal advice. To address legal barriers affecting IDPs, ICLA coordinates closely with the Civil-Military Administration, the Department of Social Protection, the Department of Justice, Migration Services, the Pension Fund and the Custody and Guardianship Services. NRC also works with local organisations, international NGOs and UN agencies.



2. METHODOLOGY

The study was conducted by a research consultant together with NRC's ICLA and Shelter teams based in Severodonetsk in the GCA of Luhansk *oblast*. Additional enquiries into HLP issues in NGCA were made through the services of a local research consultant. A variety of primarily qualitative approaches were deployed, including a literature review, two field missions, 32 key informant interviews, interviews and focus group discussions with 140 internally displaced and conflict-affected individuals and the collection of 50 individual case studies.

2.1 SCOPE AND LIMITATIONS

Although the study has a geographic and thematic scope that covers HLP rights issues relating to conflict and displacement across eastern Ukraine, it has a particular focus on Luhansk and Kharkiv *oblasts* where NRC operations are currently concentrated. This study covers areas under the control of the Ukrainian government as well as areas under the control of the *de facto* authorities in NGCA of Luhansk *oblast*. It also examines the particularly challenging circumstances of communities living in towns and villages along the contact line between the opposing forces. Although the two field mission components for this report were based entirely in GCA, the report includes information obtained through interviews and focus group discussions with respondents displaced from NGCA as well as those still living within such areas.

Although the findings focus on Luhansk and Kharkiv *oblasts* they have a resonance and relevance to issues across the broader Donbas region as well as HLP and IDP-related legislative reform and social protection provisions for conflict affected and displaced people living throughout Ukraine.

The primary limitation in the study was the lack of access to NGCA. Although the original plan of conducting a field research visits to NGCA of Luhansk *oblast* was not ultimately possible, alternative qualitative data collection arrangements were made utilising the services of a local researcher in NGCA to conduct individual case study interviews. Another limitation was the lack of access to key political decision-makers at the state level. This was

overcome by using secondary texts and third party key informant interviews in Kyiv with respondents who had had access to such decision-makers.

2.2 GUIDING QUESTIONS

The guiding questions for this study are based on two main areas of enquiry. The first set of questions deals with the prevailing legal framework relating to HLP rights in Ukraine. The second examines the experience of HLP rights in the context of displacement. Both areas of enquiry encompass the nexus between HLP rights and displacement in GCA and NGCA.

Legal Framework Questions

- ▶ What is the overarching legal framework for protecting HLP rights in Ukraine?
- ▶ To what extent is the legal provision enforced?
- ▶ How does the legal framework for HLP extend to IDPs and conflict-affected persons?
- ▶ Does the legal framework still operate in NGCA?
- ▶ If not, what, if any procedures for accessing HLP rights are in place?

Experience of Displacement Questions

- ▶ What HLP rights issues and challenges have arisen as a result of displacement?
- ▶ How has displacement complicated pre-existing HLP rights issues?
- ▶ What specific HLP rights issues relate to (a) tenants, (b) owners, and (c) other forms of ownership or tenure as result of displacement?

2.3 LITERATURE REVIEW

The available literature comprises primarily of Ukrainian legislation related to HLP rights, both as applied to Ukraine as a whole and regulations specifically introduced since the conflict, along with humanitarian reports relating to shelter, social policy, protection and human rights for conflict-affected and internally displaced people in Ukraine. Whilst there is a wide body of literature dealing with HLP rights in general and across other international contexts of conflict and displacement, there is currently very little addressing HLP issues in the Ukrainian context. This partly reflects the fact that the humanitarian response in this sector has tended to focus on shelter provision and social protection during the first year of the emergency response.

The first major research undertaken with specific relevance to HLP rights for conflict affected people has been the Shelter Cluster's Assessment in Eastern Ukraine (REACH, 2015). The preliminary findings of this assessment were published in July 2015 and provide a valuable base of quantitative data that helps underpin the more qualitative approach adopted for this study. Other key texts include the 2013 United Nations Economic Commission for Europe (UNECE) Country Profile on Housing and Land Management in Ukraine which provides a comprehensive assessment of the entire housing sector; and USAID/FHI 360's 2015 study on private public partnerships in the housing sector which points towards a number of innovative possibilities for integrating IDP durable solutions with addressing Ukraine's chronic housing problems affecting the wider population.

2.4 FOCUS GROUP DISCUSSIONS AND KEY INFORMANT INTERVIEWS

Two field missions were undertaken. The first field mission comprised a seven-day visit to Luhansk *oblast* GCA and resulted in the production of an inception report. The second field mission comprised a 10-day visit to both the government-controlled areas of Luhansk *oblast* for follow-up questions and further focus group discussions in different field sites as well as key informant interviews in Kyiv.

A total of 140 conflict-affected and internally displaced people participated as respondents for this study either through focus group discussions

or individual case study interviews. Focus group discussions were conducted in the following field sites:

- ▶ Bilovodsk: 4 unemployed IDPs with HLP issues;
- ▶ Lysychansk: 25 conflict-affected locally displaced people;
- ▶ Kabychivka: 1 Village Administrator, 1 host family, 6 IDPs living with hosts;
- ▶ Kharkiv: 14 women and 2 men at "Romashka" camp;
- ▶ Kreminna: 5 women and 1 man;
- ▶ Popasna: 1 home owner rebuilding destroyed property with NRC assistance, 2 factory owners, 1 shop owner, 1 bakery manager;
- ▶ Novotoshkivske: 30 women and 8 men;
- ▶ Severodonetsk: 7 women and 4 men in municipal community housing centre;
- ▶ Zolote-3 (Stakhanovets): 9 women.

The selected field sites reflected a range of conflict-affected and displaced experiences including those living with host communities, villages located along the contact line and those living in social housing. In addition to the focus group discussions, a total of 32 key informant interviews were conducted with local and international NGOs, government officials, UN and Red Cross staff and NRC staff working in ICLA and Shelter programmes.

2.5 CASE STUDIES

A total of 50 individual case studies were collected to provide more in-depth information on how HLP rights issues impact on people's lives. Thirty case studies were conducted in the GCA and 20 in NGCA. The case studies capture a broad range of experiences from young people; older people; people with property in NGCA or GCA but living in another area; those displaced within the NGCA; people with special needs (e.g. disabled, sick, elderly); people living in their own homes; those renting properties from private sector/state; rural and urban communities; people with businesses; landlords; and tenants.

3. BACKGROUND AND CONTEXT



3.1 CONFLICT AND CRISIS IN EASTERN UKRAINE

In April 2014 pro-Russian groups seized control of some territories in the east of Donetsk and Luhansk *oblasts* bordering the Russian Federation. The Government of Ukraine responded by launching a military operation to regain control of what they refer to as the ‘temporarily occupied territories’ in the region. The opposition forces in both contested *oblasts* proclaimed themselves the ‘Donetsk People’s Republic’ and ‘Luhansk People’s Republic’ respectively¹⁵. In September 2014, a ceasefire agreement known as the Minsk Protocol was signed by the leaders of Ukraine, the Russian Federation, the *de facto* authorities in both NGCA, under the auspices of the Organisation for Security and Cooperation in Europe (OSCE). By January 2015 the Minsk Protocol had broken down following renewed offensives by armed groups of *de facto* authorities in NGCA of Donetsk and Luhansk *oblasts*. A second ceasefire agreement, known as

Minsk II, was signed in February 2015 with additional support from the leaders of Germany and France. This agreement delineated the contact line between Ukrainian and separatist forces, established provisions for the restoration of social and economic connections and outlined the modalities for future local elections in Donetsk and Luhansk *oblasts* along with a move towards Ukrainian constitutional reforms enabling greater levels of devolved autonomy and local self-governance in the east. Despite this agreement and international diplomatic efforts the conflict in eastern Ukraine remains unresolved.

Since this agreement entered into force, localised hostilities along the contact line occurred regularly and – during the summer months of 2015 – the OSCE monitoring mission reported an increase in the quantity, intensity and geographical scope of ceasefire violations. The localised fighting has often been characterised by indiscriminate shelling of civilian objects, with mine/UXO contamination a major concern in many areas along the contact line. This has contributed to additional displacement, civilian loss of life and destruction of infrastructure. Since 1 September 2015, both sides have agreed to comply with the ceasefire, notably restricting the

¹⁵ NRC consistently follows the terminology of IDMC and OCHA and hereafter refers to these subjects as NGCA in Donetsk or Luhansk *oblasts* respectively.

use of heavy weapons; the security has, therefore, recently improved.¹⁶

The conflict in eastern Ukraine and the large-scale displacement is coupled by an on-going national economic crisis. By the end of the first quarter of 2015, GDP had fallen by 18 percent over the previous 12 months, Ukraine's currency, the Hryvnia (UAH), had rapidly depreciated against the US dollar resulting in 60 percent inflation and the depletion of the country's foreign currency reserves.¹⁷ At the same time, much of the industrial production, mainly coal mining and factories in the east, closed or scaled down as a result of the fighting. The resulting large-scale unemployment has increased the vulnerabilities of the IDP and conflict-affected populations who depended on these industries.

3.2 HUMANITARIAN NEEDS AND RESPONSE

The humanitarian situation has deteriorated since the spring of 2015. As of November 2015, there were some 4 million people affected by conflict in eastern Ukraine. This includes an estimated 2.7 million people living in NGCA and 800,000 people living in frontline communities along the contact line (in GCA and NGCA). According to the Ministry of Social Policy there were over 1.6 million registered IDPs as of December 2015.¹⁸ Since April 2014 the conflict has caused considerable human suffering, with over 9,000 killed and 20,000 injured¹⁹ while the civilian infrastructure has suffered substantial destruction.

The hostilities have generated significant humanitarian needs among displaced and resident communities alike. Freedom of movement across the contact line has become even more difficult since mid-2015, partly due to the destruction of infrastructure and partly due to a strict permit system, which has been

put in place to cross between GCA and NGCA. These imposed restrictions on movement have led to a steady weakening of coping capacities. Freedom of movement has thus become a key issue for civilians and for basic life-supporting services in NGCA.

In many localities affected by hostilities, basic life-supporting services have been disrupted; some civilians have no access to income, little in the way of medicine, food, heating or money. Additionally, the destruction of water infrastructure in some areas poses a threat to the civilian population. The conflict has caused massive damage to infrastructure and residential buildings. Prices of basic goods have risen due to the weakening of the economy and economic dislocation in conflict-affected areas.

Humanitarian access into NGCA has remained a major issue of concern due to the numerous restrictions of the de facto authorities and of the Ukrainian government. An authorisation process ("registration") imposed by the de facto authorities in NGCA of Luhansk and Donetsk oblasts for international humanitarian actors has resulted in the suspension of most international NGO activity. The Ukrainian government also has complicated procedures for allowing humanitarian agencies to operate in NGCA; the humanitarian community has continued to advocate on the need for multiple crossing points to NGCA, simplified, fast-track procedures for humanitarian cargo and clearer regulations for the movement of humanitarian personnel.

The most affected regions can be divided into three areas with different humanitarian needs:

1. Areas not directly affected by fighting or physical destruction, but host to large numbers of IDPs;
2. Areas along the contact line in both GCA and NGCA directly affected by the ongoing conflict and hostilities and where basic services have been disrupted and homes and infrastructure damaged; and
3. Areas not currently under the control of the Ukrainian government (NGCA) where the entire population is considered affected and at risk of displacement.

16 <http://www.reuters.com/article/2015/08/26/us-ukraine-crisis-ceasefire-idUSKCN0QV29A20150826>

17 Crisis in Ukraine - Ukraine in Graphics, The Economist, 4 June 2015, <http://www.economist.com/blogs/graphicdetail/2015/06/ukraine-graphics>

18 As of December 28, 2015 the Ministry of Social Policy had registered 1,673,135 IDP (Ministry of Social Policy of Ukraine, available online: http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=184787&cat_id=107177 [accessed 17 November 2015]).

19 OHCHR, Report on Human Rights Situation in Ukraine, 16 August to 15 November 2015, available online: <http://www.ohchr.org/Documents/Countries/UA/12thOHCHRreportUkraine.pdf> [accessed: 29 December 2015].



3.3 INTERNAL DISPLACEMENT

Although the internally displaced population is dispersed throughout Ukraine, the vast majority has remained within the GCA of Luhansk and Donetsk *oblasts* or within the neighbouring *oblasts* of Zaporizhzhia, Dnipropetrovsk and Kharkiv. The number of actual conflict-affected displaced people within NGCA of Luhansk and Donetsk *oblasts* is unknown, but it is estimated that there are 2.7 million people in need residing in the NGCA.²⁰ Further detailed research into IDP prevalence and conditions in NGCA is urgently required to ascertain the full extent of internal displacement within these territories.

Across the five *oblasts* cited above, the gendered demographics of displacement show that the affected population is predominantly female (63 percent).²¹ Men are more likely than women to

have stayed behind to look after family assets, for employment or were already working elsewhere. The majority of the displaced have dependents. The dependency ratio ranges from 0.8 to 1.2.²²

According to the testimonies of the respondents, forced migration flows have not been uniform or unidirectional. Some respondents spoke of circuitous journeys from NGCA of Luhansk *oblast* which included periods attempting to find assistance or employment in Russia followed by a return to their former homes. Others told of family units and extended families split between GCA and NGCA. Frequently a husband, adult son or elderly parent would stay to attend to the family property whilst the women and young children left. The safety of children came through as a powerful driver and trigger of displacement. Even within GCA, especially in villages along the contact line, respondents reported that they had taken their children to live with relatives in other parts of Ukraine but had returned to work as they could not afford to live anywhere else. Others were reported to have travelled monthly from NGCA to register as IDPs or collect pensions and return.

20 OHCHR, Report on Human Rights Situation in Ukraine, 16 August to 15 November 2015, page 3, available online: <http://www.ohchr.org/Documents/Countries/UA/12thOHCHRreportUkraine.pdf> [accessed: 29 December 2015].

21 See for example, The Workshop on Gender Equality in Humanitarian Action: 2016 humanitarian needs and response planning (6 October 2015), available online: <http://eca.unwomen.org/en/news/stories/2015/10/ukraine-un-tackles-gender-and-humanitarian-impacts#sthash.maLr6kww.dpuf>

22 REACH/Shelter Cluster (August 2015).

3.4 HOUSING CONDITIONS IN UKRAINE

The gendered and child focused needs of Ukraine's IDPs were starkly highlighted during a site visit to a typical social housing scheme in Severodonetsk (FGD). The 67 displaced residents in the premises shared just four toilets. The toilets were not segregated by sex and had no doors for privacy. Although the two shower units that were available were divided for men and women, baths had to be taken on a schedule, meaning that residents only had two baths per week. No special facilities were provided for children despite the significant presence of youngsters. Kitchen facilities shared between all of the residents consisted of two small refrigerators and two cookers.

Housing conditions for IDPs are, however, not dissimilar to those experienced by many Ukrainians. According to a 2013 report from the United Nations Economic Commission for Europe (UNECE):

Many people are affected by cramped living spaces and worsening residential conditions. One in three Ukrainians lives in substandard conditions, with several generations living in the same dwelling. This kind of housing deprivation is particularly noticeable among families with several children and single parent-led households.²³

The demographic profile of deprived housing residents closely mirrors that of the IDP populations. This suggests that an overarching national housing solution that integrates the needs of the wider socially vulnerable population with those of IDPs would be beneficial, especially given the political sensitivities for funding compensation or restitution.

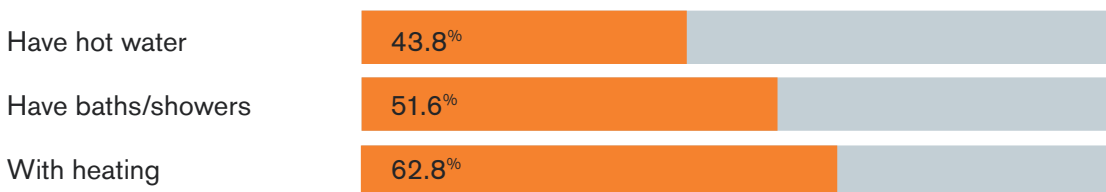
There is a chronic shortage of adequate housing throughout the country, not just for IDPs. There has been little new investment in state housing construction since the Soviet era.

Only 7 percent of housing stock was built after 1991 with almost 42 percent of the balance built before 1960.²⁴ Housing stock quality is deteriorating and almost half of the entire stock has never benefited from capital repairs.

Communal spaces in the majority of apartment blocks suffer from “deferred maintenance, bad maintenance or both.”²⁵ In terms of utilities across Ukraine only 62.8 percent of residential properties have heating, 54.6 percent have baths/showers and less than half (43.8 percent) have hot water.

94.7 percent of the population live in homes that they own as a result of privatisation or purchase.²⁶ These are either individual flats or houses. The remaining population resides in communal apartments, share part of a house or live in hostels (2.6 percent).

Utilities



Type of properties



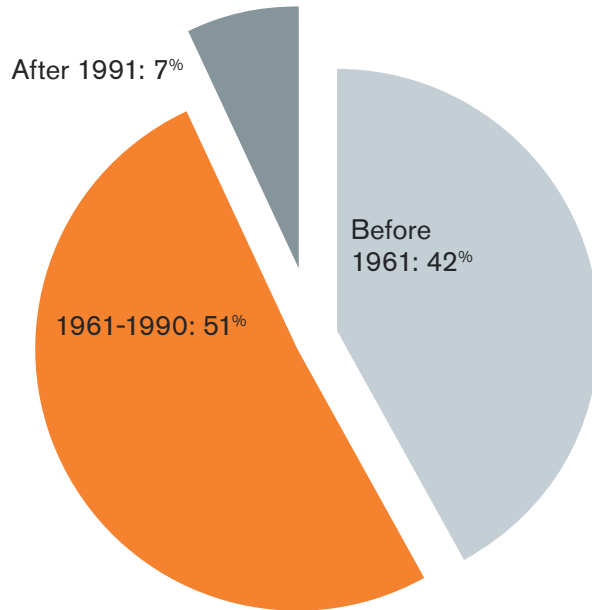
²³ UNECE (2013) p. 25

²⁴ *ibid*, p.21

²⁵ *ibid*. p.22

²⁶ *ibid*

Percentage of State Housing



The disparities for access to utilities between urban and rural areas are stark. For example, only 14.3 percent have hot water in rural areas compared with 60.3 percent for urban.²⁷

A system of state benefits for social housing is in place for a wide range of categories across the general population. These include people living in substandard accommodation, overcrowded housing, sublease tenants in municipal or state

properties, hostel residents, those renting privately for more than five years and people with special needs. There is a long waiting list to access government housing allocation with over 1.1 million identified as needing housing and with 68 percent having been in the queue for more than 10 years.²⁸ It is in this context that any debate on HLP rights for IDPs in Ukraine needs to be viewed.

Type of properties



27 Ibid p.19i

28 Ibid p. 27

4. LEGAL FRAMEWORK FOR HLP



The enactment and implementation of legislation to secure HLP rights for Ukraine's conflict-affected and displaced population is an issue that needs to be urgently addressed. This chapter therefore examines the international normative legal framework and principles relating to housing land and property rights, their integration into Ukraine's national legal framework and their application in the context of the country's conflict and internal displacement. An examination of international norms and obligations read in conjunction with

Ukraine's existing provisions provides the benchmark and direction for advocacy and action in promoting the necessary legislative reforms required to strengthen HLP rights for this sector of the community in the current context. This chapter is divided into three sub-sections. The first section covers international norms and standards whilst the second examines the Ukrainian context of HLP provision before the conflict. The concluding section explores new and emerging legislation related to HLP rights.

4.1 INTERNATIONAL LEGAL FRAMEWORK

Following the dissolution of the Soviet Union, Ukraine became an independent state in 1991 with a new constitution adopted in 1996 and amended in 2005. Ukraine has been a Participating State in the Organisation of Security and Cooperation in Europe (OSCE) since 1991 and a Member State of the Council of Europe since 1995. Ukraine is party to the main conventions and treaties on international humanitarian law, notably to the Geneva Conventions and their Additional Protocols. Ukraine has ratified 44 key international human rights treaties, conventions and other instrument.²⁹ Of these, the most relevant to the question of HLP rights and displacement is the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and additional protocols.³⁰

EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ECHR)

Article 1 of Protocol No. 1 of the ECHR

“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.”

Article 2 of Protocol No. 4 to ECHR

“Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.”

²⁹ Ukraine has been a Member State of the United Nations since its inception in 1945. As the Ukrainian Soviet Socialist Republic (Ukrainian SSR), it became a signatory to the Universal Declaration on Human Rights in 1948. The International Covenant on Economic, Social and Cultural Rights was ratified by the Ukrainian SSR in 1973.

³⁰ For a full discussion on these instruments in relation to HLP, interpretations and case law see: 1) Aida Grgic, Zvonimir Mataga, Matija Longar and Ana Vilfan (June 2007) The right to property under the European Convention on Human Rights: A guide to the implementation of the European Convention on Human Rights and its protocols, Council of Europe, <http://www.refworld.org/docid/49f186632.html>; 2) Arturs Kucs, Zane Sedlova and Liene Pierhurociva (2008) The Right to Housing: International, European and National Perspectives, University of Latvia dialnet.unirioja.es/descarga/articulo/3685067.pdf;

UNIVERSAL DECLARATION ON HUMAN RIGHTS (UDHR)

The right to adequate housing as part of the basic right of everyone to enjoy an adequate standard of living is enshrined in the *Universal Declaration on Human Rights* (UDHR) as adopted by the United Nations in 1948.

Article 17 (1)

“Everyone has the right to own property alone as well as in association with others; (2) No one shall be arbitrarily deprived of his property”

Article 25 (1)

“ Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

The right to adequate housing is further enshrined under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) which was adopted by the General Assembly in 1966.

Article 11 (1)

*“ The States Parties to the present Covenant recognize the right of everyone to an **adequate standard of living** for himself and his family, including adequate food, clothing and **housing**, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”*

General Comment No. 4 further defines the notion of adequate housing under Article 11(2). Section 8 (a) elaborates on legal security of tenure stating that:

"[t]enure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all people should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those people and households currently lacking such protection, in genuine consultation with affected people and groups".³⁰

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)³¹

Part 3, Article 17 of the ICCPR states that:

"(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

(2) Everyone has the right to the protection of the law against such interference or attacks."

Moreover, Article 26 provides that

"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

UNITED NATIONS PRINCIPLES ON HOUSING RESTITUTION FOR REFUGEES AND DISPLACED PERSONS

In the context of HLP rights for displaced people the overarching normative framework is encapsulated in the *United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons*, commonly referred to as the *Pinheiro Principles* after the United Nations Special Rapporteur who led their development.³²

The *Pinheiro Principles* consolidate and reaffirm existing human rights and specifically applies them to the issue of housing and property restitution. The *Pinheiro Principles* reaffirm the right to protection of all internally displaced persons and refugees from arbitrary and unlawful deprivation of housing, and property. The Principles further reaffirm the right of restitution for people deprived of housing and property. Restitution refers to making good the loss either through restoration or adequate compensation. **Principle 21** on compensation states:

"All refugees and displaced persons have the right to full and effective compensation as an integral component of the restitution process. Compensation may be monetary or in kind. States shall, in order to comply with the principle of restorative justice, ensure that the remedy of compensation is only used when the remedy of restitution is not factually possible, or when the injured party knowingly and voluntarily accepts compensation in lieu of restitution, or when the terms of a negotiated peace settlement provide for a combination of restitution and compensation. "

Principle 21 further states in relation to contexts where restitution of original properties is deemed impossible that:

"States should ensure, as a rule, that restitution is only deemed factually impossible in exceptional circumstances, namely when housing, land and/or property is destroyed or when it no longer exists, as determined by an independent, impartial tribunal. Even under such circumstances the holder of the housing, land and/or property right should have the option to repair or rebuild whenever possible. In some situations, a combination of compensation and restitution may be the most appropriate remedy and form of restorative justice."

Although States are regarded as the primary duty-bearers, non-state actors who have been instrumental in causing the loss or destruction of properties are also held accountable under international law for restitution and compensation.

In order to uphold displaced women's HLP rights, the *Pinheiro Principles* emphasise that restitution programmes should implement a gender strategy, in particular where the status quo effectively discriminates against women's right to ownership, either

31 <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

32 Paulo Sérgio Pinheiro

in law or practice.³³ The *Pinheiro Principles* also oblige states to ensure that restitution programmes, policies and practices recognise joint ownership rights of both male and female heads of household as an explicit component of the restitution process. This provision is designed to combat discrimination which occurs when only male heads of households are recognised as rights holders or are provided with formal title to housing, leaving women without legal control over property³⁴.

GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT ³⁵

The *Guiding Principles on Internal Displacement* define an IDP as follows³⁶:

“Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally-recognized State border”.

Relevant sections of the *Guiding Principles on Internal Displacement*:

Principle 6

(1) Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

(2) “The prohibition of arbitrary displacement includes displacement:

(b) In situation of armed conflict unless the security of the civilians involved or imperative military reasons so demand.

33 Principle 4.2. The United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons. See also the Handbook: Implementing the Pinheiro Principles, http://www.ohchr.org/Documents/Publications/pinheiro_principles.pdf

34 For further discussion on displaced women’s HLP rights see NRC’s report: Life Can Change: Securing housing, land and property rights for displaced women, 2014, <http://womenshlp.nrc.no>

35 <http://www.ohchr.org/EN/Issues/IDPersons/Pages/Standards.aspx>

36 *Guiding Principles (2004) Introduction: Scope and Purpose (2)* <http://www.unhcr.org/43ce1cff2.html>

Principle 14

(1) Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.

Principle 18

(1) All internally displaced persons have the right to an adequate standard of living.

(2) At a minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to ...

(b) basic shelter and housing.

Principle 21

(1) No one shall be arbitrarily deprived of properties and possessions.

(2) The property and possessions of internally displaced persons shall in all circumstances be protected, in particular against the following acts: (a) pillage; (b) direct or indiscriminate attacks or other acts of violence; (c) being used to shield military operations or objectives; (d) being made the object of reprisal and (e) being destroyed or appropriated as a form of collective punishment.

(3) Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Principle 28

(1) Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.

(2) Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 29

(1) Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

(2) Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

GENEVA CONVENTIONS AND ADDITIONAL PROTOCOLS / CUSTOMARY IHL³⁷

International humanitarian law (IHL), in particular the Geneva Conventions and their Additional Protocols, as well as customary international humanitarian law, protect civilians and civilian property in time of armed conflict. While protecting all civilians without discrimination, persons displaced during conflict are singled out for special mention.³⁸ Certain provisions are of relevance for HLP rights.³⁹

The customary rules of international humanitarian law that concern displacement and displaced persons⁴⁰:

Rule 129.

A. Parties to an international armed conflict may not deport or forcibly transfer the civilian population of an occupied territory, in whole or in part, unless the security of the civilians involved or imperative military reasons so demand. [IAC]⁴¹

B. Parties to a non-international armed conflict may not order the displacement of the civilian population, in whole or in part, for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand. [NIAC]⁴²

Rule 130. States may not deport or transfer parts of their own civilian population into a territory they occupy. [IAC]

Rule 131. In case of displacement, all possible measures must be taken in order that the civilians concerned are received under satisfactory conditions of shelter, hygiene, health, safety and nutrition and that members of the same family are not separated. [IAC/NIAC]

Rule 132. Displaced persons have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist. [IAC/NIAC]

Rule 133. The property rights of displaced persons must be respected. [IAC/NIAC]



37 <https://www.icrc.org/en/document/what-ihl>

38 <https://www.icrc.org/eng/war-and-law/protected-persons/refugees-displaced-persons/overview-displaced-protected.htm>

39 https://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter38_rule133

40 List of customary rules of international humanitarian law <https://www.icrc.org/eng/resources/documents/misc/customary-law-rules-291008.htm>

41 International Armed Conflict

42 Non-International Armed Conflict

4.2 UKRAINIAN LEGISLATION AND REGULATION (PRIOR TO CURRENT CRISIS)

Since independence in 1991, the Government of Ukraine has embarked on a process of introducing legislative and governance reforms. The ideological and bureaucratic underpinnings of Soviet-era social protection safety-nets and collective forms of ownership have been difficult to reconcile with the EU standards that Ukraine looks towards as a benchmark. It is important to recognise this overarching context when considering the position of HLP rights and reforms for internally displaced people within Ukraine's legal framework. Both HLP and displacement have to vie for attention and commitment within the Ukrainian parliament (*Verkhovna Rada*) with an enormous range of other equally pressing reforms that require urgent attention.

CONSTITUTION OF UKRAINE

The endorsement of Ukraine's new constitution in 1996 incorporated a comprehensive range of internationally accepted rights⁴³. Articles 13 and 14 of Ukraine's Constitution deal broadly with the right to the utilisation of land whilst *Chapter 2: Human and Citizen's Rights, Freedoms and Duties* sets out a range of rights pertaining to properties, residence and place of origin that are highly relevant to current conflict, geographic divisions in eastern Ukraine and displacement context.

Article 24 guarantees no restrictions or benefits based on property status or place of residence. Article 25 guarantees the care and protection of Ukrainian citizens living beyond the country's borders, whilst Article 26 safeguards the rights of foreigners and stateless people within Ukraine. Article 30 guarantees the inviolability of a dwelling place. It states:

“Entry into a dwelling place or other possessions of a person, and the examination or search thereof, shall not be permitted, other than pursuant to a substantiated court decision. In urgent cases related to the preservation of human life and property or to the direct pursuit of people suspected of committing a crime, another procedure established by law is possible for entry into a dwelling place or

other possessions of a person, and for the examination and search thereof.”

Whilst Article 30 may give protection against forced occupation of a dwelling, Ukraine's anti-terrorist legislation introduced in November 2014 enables such constitutional rights to be suspended in the interests of national security. Provision for this is made under Article 64 of the Constitution which states: *“Under conditions of martial law or a state of emergency, specific restrictions on rights and freedoms may be established with the indication of the period of effectiveness of these restrictions.”*

Article 33 deals with the right to freedom of movement and place of residence. It states that: *“Everyone who is legally present on the territory of Ukraine is guaranteed freedom of movement, free choice of place of residence, and the right to freely leave the territory of Ukraine, with the exception of restrictions established by law.”*

The most important articles of Ukraine's Constitution for HLP rights are Articles 41 and 47. Article 41 has particular relevance in the context of military occupation of private properties along the contact line. Article 47 has resonance for those seeking social protection as a result of conflict related displacement:

Article 41

“Everyone has the right to own, use and dispose of his or her property, and the results of his or her intellectual and creative activity. The right of private property is acquired by the procedure determined by law. In order to satisfy their needs, citizens may use the objects of the right of state and communal property in accordance with the law. No one shall be unlawfully deprived of the right of property. The right of private property is inviolable. The expropriation of objects of the right of private property may be applied only as an exception for reasons of social necessity, on the grounds of and by the procedure established by law, and on the condition of advance and complete compensation of their value. The expropriation of such objects with subsequent complete compensation of their value is permitted only under conditions of martial law or a state of emergency. Confiscation of property may be applied only pursuant to a court decision, in the cases, in the extent and by the procedure established by law. The use of property shall not cause harm to the rights, freedoms and dignity of citizens, the interests of society, aggravate the ecological situation and the natural qualities of land.”

⁴³ Constitution of Ukraine (Adopted 28 June 1996) Amended by Law No. 2952-VI (01 February 2011) and Law No. 586-VII (19 September 2013)

Article 47

“Everyone has the right to housing. The State creates conditions that enable every citizen to build, purchase as property, or to rent housing. Citizens in need of social protection are provided with housing by the State and bodies of local self-government, free of charge or at a price affordable for them, in accordance with the law. No one shall be forcibly deprived of housing other than on the basis of the law pursuant to a court decision.”

Article 48 reiterates the right of everyone to enjoy an adequate standard of living, as set out in the ICESCR, which includes adequate housing. Article 56 is of relevance to potential future claims for the restitution of damaged, destroyed or lost properties arising from the conflict. It states:

Everyone has the right to compensation, at the expense of the State or bodies of local self-government, for material and moral damages inflicted by unlawful decisions, actions or omission of bodies of state power, bodies of local self-government, their officials and officers during the exercise of their authority.

National laws relating to HLP rights

Ukraine’s laws pertaining to housing and property are found in three main pieces of legislation:

- ▶ Civil Code No. 435 (2003);
- ▶ Land Code of Ukraine No. 2768 (2001);
- ▶ Housing Code of Ukrainian SSR No. 5464-X (1983).

Much of the Ukraine’s legislation in relation to housing, land and property is derived from the previous Soviet-era Housing Code.⁴⁴ The United Nations Economic Commission for Europe (UNECE) has criticised post-independence enactments for having only short or mid-term objectives in mind and has recommended that: *“Amendments are needed to the inherited Housing Code to allow for long-term State policy on housing.”*⁴⁵

44 Housing Code of the Ukrainian Socialist Soviet Republic No. 5464-X of 30 June 1983.

45 UNECE (2015) p. 14

Evictions under the Civil Code

Of particular relevance to the situation of IDPs are the regulations on tenancy agreements in the Civil Code. Where formal written lease agreements exist, there are provisions for the rights of both tenants and landlords. Although security deposits are not regulated they are believed to be widely practiced.

With respect to eviction under the Civil Code, no notice is required to evict a tenant at the end of a fixed-term contract. Landlords have the right to evict tenants through court orders should they fail to leave the property at the end of the contract period. The notice period for vacating a property prior to the end of a non-fixed term lease agreement is three months for either party. In the case of properties that have become unfit for habitation, no notice is required on the part of the tenant. In cases where a tenant has failed to pay rent for three consecutive months a landlord is entitled to apply to the courts for an eviction order which may be served with immediate effect and without prior notice. Termination of lease by either party can be sought by either party through the courts. Landlords may apply if the tenant has broken the conditions of the lease though the improper use of the property; subletting; negligence resulting in risk of damage to the property or failure to carry out repairs if indicated as an obligation of the tenant in the agreement. A tenant may apply for a termination of lease if the property does not meet the terms of the lease, cannot be used for the intended purpose or if the landlord does not undertake any stated responsibilities for capital repairs.⁴⁶ The above standard terms and conditions could be amended with the agreement of both parties.

Gender Equality in Ukrainian Law

Women’s property rights are protected under the *Constitution of Ukraine* and the *Family Code of Ukraine*.⁴⁷ Articles 57-59 set out the provisions for personal private property rights in relation to both spouses in a marriage and cover personal property acquired before and during the marriage. Chapter 8, (Articles 60-74) sets out the *“Right of Spouses to Joint Matrimonial Property”*. In the event of divorce or dissolution of the civil partnership, women have equal rights to any property acquired during the

46 Global property guide to Ukraine. <http://www.globalpropertyguide.com/Europe/Ukraine/Landlord-and-Tenant>

47 1 January, 2003; available at: <http://www.refworld.org/docid/4c4575d92.html>.

period of marriage or civil partnership under these provisions. According to the Organisation for Economic Cooperation and Development's (OECD) Social Institutions and Gender Index (SIDI), Ukraine has very few restrictions on women's access to, control and ownership of resources.⁴⁸

Children's Rights

The *Family Code of Ukraine* sets out the property rights of children. Chapter 14, Articles 174-179 sets out the property rights of parents and their children. Article 248 deals with orphaned children and enables them to retain the right to the property where they previously lived.



48 OECD SIDI <http://genderindex.org/country/ukraine>

4.3 UKRAINIAN LEGISLATION AND REGULATION (ENACTED SINCE CONFLICT BEGAN)

In May 2015 the Ukrainian Parliament passed a resolution derogating some of its responsibilities under the ICCPR and ECHR, due to the conflict and occupation of territories, as it is entitled do so under the terms of these treaties.⁴⁹ An explanatory note to the resolution states "*Conducting the Anti-Terrorist Operation in certain areas of Donetsk and Luhansk oblasts, in response to the armed aggression of the Russian Federation and the actions of Russian-backed terrorist groups, was accompanied by the Verkhovna Rada's adoption of laws that are inherently incompatible with Ukraine's obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and the European Social Charter.*"⁵⁰

On 27 August 2015 the Government of Ukraine lodged an inter-State application against the Russian Federation before the European Court of Human Rights concerning the events in Crimea and Eastern Ukraine, mainly as of September 2014.⁵¹ In the application, the Government of Ukraine maintains that Russia has exercised and continues to exercise – by controlling separatists and armed groups there – *de facto* control over the regions of Donetsk and Luhansk. Accordingly, the application states that Russia is therefore responsible for numerous violations of the European Convention on Human Rights in those areas falling within its jurisdiction.⁵²

Since the outbreak of the conflict, new legislation in the form of laws, temporary orders and Cabinet of Ministers' resolutions have been enacted, often very rapidly, in order to address pressing IDP and conflict-related issues as they emerged.

49 Human Rights Watch (01-06-2015) Dispatches: Another day, more Ukraine frenzy from Russian media. <https://www.hrw.org/news/2015/06/01/dispatches-another-day-more-ukraine-frenzy-russian-media>

50 Ukrinform News (21-05-15) Ukraine derogates from some of its international obligations due to Russian aggression. http://www.ukrinform.net/rubric-politics/1847294_ukraine_derogates_from_some_of_its_international_obligations_due_to_russian_aggression_331584.html

51 Ukraine v. Russia (IV) (application no. 42410/15). On 29 September 2015 the application was communicated to the Russian Federation; see the European Court of Human Rights Press Release: [http://hudoc.echr.coe.int/eng-press?i=003-5187816-6420666#{"item id":\["003-5187816-6420666"\]}](http://hudoc.echr.coe.int/eng-press?i=003-5187816-6420666#{)

52 Ibid.

Consequently, this body of laws is somewhat piecemeal, has gaps in its scope and application, is at times overlapping or contradictory and is often limited in terms of allocating responsibilities and establishing mechanisms for implementation. Not all of the laws have been ratified and a number remain in draft form. The enactments and drafts outlined below are those that have a bearing on HLP rights for IDP and conflict-affected people.⁵³

Law on Ensuring the Rights and Freedoms of Internally Displaced Persons (IDP Law)⁵⁴

This law sets out the scope of the IDP rights and freedoms to be enjoyed under the law, defines the criteria for IDP categorisation and establishes the process for IDP registration.

Article 1 of the law defines an IDP as a “*citizen of Ukraine, permanently residing in Ukraine, that was forced or voluntarily left one’s residence as a result of or in order to avoid negative impact of armed conflict, temporary occupation, situations of generalized violence, mass violations of human rights and disasters of natural or human-made origin.*” This law does not specify any geographic criteria for IDP status and is in that respect consistent with the general definition of an IDP outlined in the Guiding Principles on Internal Displacement.⁵⁵ The amendments to the law which entered into force in January 2016 extend the application of the IDP law to foreigners and stateless persons⁵⁶ which is of significance because the conflict has resulted in the displacement of foreign nationals formerly residing in NGCA, such as those from the Donetsk State Medical University which prior to the conflict had 2,500 foreign students.

Article 9 states that IDPs have the right to receive reliable information and free temporary accommodation for up to six months, extendable for families with special needs:

“Internally displaced persons have a right to (...) reliable information about potential threats to life or health in the territory of an abandoned residence,

as well as place of temporary accommodation, its infrastructure, environment, ensuring of rights and freedoms; proper conditions of a person’s permanent or temporary accommodation; providing from state executive bodies, local governments and private legal entity of opportunity for free temporary accommodation (with payment for housing services) within six months from the date of registration of an internally displaced person; for large families, people with disabilities, elderly people this period may be extended”.

Prior to adoption, the law went through a number of draft stages during which a number of articles included in the original version were diluted or omitted. These included the limiting of IDP registration certificates to just six months validity and a number of provisions for HLP rights which had significant budgetary implications and responsibilities for the government.

Resolution no. 509

Cabinet of Ministers Resolution no. 509 (1 October 2014) On recording internally displaced persons

This was enacted prior to the IDP law coming into force and sets out the provisions for the application / registration of internally displaced persons from the temporarily occupied territory of Ukraine and regions of the anti-terrorist operation. The scope of definition for an IDP was therefore geographically restricted in this law, in contradiction to the broader definition contained in the subsequent IDP Law (see above). Amendments to Resolution no. 509 in September 2015⁵⁷ attempted to remove geographical restrictions for registration of IDPs. In practice however, local authorities still consider only persons originating from NGCA to be entitled to registration as IDPs. Despite the increasing number of registered IDPs, many displaced persons are still unable

53 This report reflects the situation as of December 2015.

54 Adopted 20 October 2014 / enacted 22 November 2014

55 See Chapter 4.1. Also <http://www.ohchr.org/EN/Issues/IDPersons/Pages/Standards.aspx>

56 Law no. 2166 on Amendments to Certain Legislative Acts of Ukraine to Strengthen the Guarantees for Observation of the Rights and Freedoms of Internally Displaced Persons (13 January 2016)

57 Government of Ukraine (2015) Amendments to the Cabinet of Ministers Resolution No. 509, On registration of internally displaced persons, 9 September 2015.



or unwilling to register⁵⁸ or may be de-registered if not found to be living at their place of temporary residence by law enforcement agencies.⁵⁹

Resolution no. 505

Cabinet of Ministers Resolution no. 505 (1 October 2014) On providing a monthly address assistance to internally displaced persons living costs, including housing and utilities

In the 2014 Resolution no. 505 the Government set the financial benefits that an IDP can receive and outlined the mechanism for registration and receiving these benefits. The Resolution resolved to “To establish a monthly address assistance to internally

displaced persons for covering living costs, including housing and utilities”.⁶⁰

Financial assistance for registered IDPs is calculated at 884 UAH per person each month for children, pensioners and the disabled (i.e. those who cannot work). Able-bodied adults of working age are provided with a reduced amount of 442 UAH per month.⁶¹ There is a maximum limit of 2,400 UAH per family per month and the resolution provides assistance for six months, with the possibility of extension subject to IDP re-registration. While the reduced amount for adults of working age was intended to promote employment, the ability to successfully obtain a job as an IDP may be limited in a context of high unemployment and economic crisis. Amendments to Resolution no. 505 in September 2015 attempted to remove the geographical restrictions for registration of IDPs. In practice however, local authorities still consider only persons originating from NGCA to be entitled to benefits.⁶²

58 See, for example, UN High Commissioner for Refugees (UNHCR), International Protection Considerations Related to the Developments in Ukraine – Update III, 24 September 2015, available at: <http://www.refworld.org/docid/56017e034.html>; and IDMC (March 2015) IDP Registration in Ukraine: Who’s In, Who’s Out and Who’s Counting? <http://www.internal-displacement.org/blog/2015/idp-registration-in-ukraine-whos-in-whos-out-and-whos-counting>.

59 See Cabinet of Ministers Resolution 79 (4 March 2015) Some Aspects of Issuance of Certificates to Persons Displaced from Temporarily Occupied Territory of Ukraine and Districts of Anti-Terrorist Operation

60 unhcr.org.ua/attachments/article/1231/505amendmentsJuneE.do

61 <http://www.internal-displacement.org/europe-the-caucasus-and-central-asia/ukraine/2014/time-to-act-internal-displacement-on-the-rise-in-ukraine>

62 Government of Ukraine (2015) Amendments to the Cabinet of Ministers Resolution No. 505, On providing monthly targeted financial support to IDPs to cover livelihood, including housing and utilities, 9 September 2015

Temporary Order (TO) of 21 January 2015⁶³

This order “puts in place an access regime to/from the territory not controlled by the Government of Ukraine, requesting special permits which one must apply for in advance in order to cross the contact line”.⁶⁴ The process of applying for travel permits is lengthy and bureaucratic. During the first five months of 2015, a total of 349,496 people applied for permits but only 275,755 were issued.⁶⁵ The Protection Cluster has raised a number of concerns relating to the TO. Not only does it have implications for people seeking to flee the NGCA in the event of further conflict, but also for those seeking medical treatment, access to legal procedures which have been suspended in NGCA, access to pensions and other benefits, and employment. The TO also restricts the ease of visiting NGCA from GCA in order to attend to housing matters such as registering properties or to pay utility bills. People wishing to travel in either direction are unable to do so if they lack the necessary documentation. Many IDPs and conflict-affected people, in particular, may have lost identity or residency documents as a result of the conflict.

Law no 921 - VIII (Draft Law no. 2166)

Law of Ukraine no. 921 - VIII On Amendments to Certain Legislative Acts of Ukraine to Strengthen the Guarantees for Observation the Rights and Freedoms of the Internally Displaced Persons⁶⁶

This law extends the definition of an IDP to include stateless persons and foreigners with permanent residence in Ukraine. It also expands the type of documentary evidence required to establish IDP status. Previously, this was evidenced through passports and residency permits. Expanding the sources of evidence that can be provided as proof of internal displacement is important because many IDPs have lost or are unable to produce their passports and residence permits.

Of particular relevance to HLP rights associated with IDP status is unlimited validity of the IDP certificate that was previously only valid for six months. Many registered IDPs receiving rental assistance or accommodated in local government social housing schemes faced uncertainty over whether their IDP status would be renewed or withdrawn on subsequent applications.⁶⁷ In addition, the Government of Ukraine assumed the obligation to undertake all possible measures for creating conditions for voluntary return of IDPs to their previous places of residence, or for their integration in new communities in Ukraine.

Draft Law no. 2167

Draft Law of Ukraine no. 2167 On Compensation of Damaged Property for Internally Displaced Persons.

This draft law attempts to establish a legal basis through which compensation processes and procedures can be developed. It is also limited in scope as it applies to registered IDPs, but does not extend to all internally displaced people (as explained above) in contradiction to international law.⁶⁸

63 The Temporary Order was amended in June and September 2015.

64 Protection Cluster Ukraine (25 May 2015) The Right to Freedom of Movement, available online: http://reliefweb.int/sites/reliefweb.int/files/resources/advocacy_note_on_freedom_of_movement.pdf

65 Ibid

66 13 January 2016

67 Protection Cluster Ukraine (August 2015) Update on IDP Registration. https://www.humanitarianresponse.info/ru/system/files/documents/files/ukraine_pc_registration_update_august_en_0.pdf

68 In addition, conflict-affected people residing along the contact line are also excluded.

5. HLP CHALLENGES FOR DISPLACED AND CONFLICT-AFFECTED COMMUNITIES

This section identifies some of the key HLP rights issues in eastern Ukraine that have emerged from the literature review and field research. This is by no means an exhaustive list of HLP concerns for displaced and conflict-affected communities, but rather an initial overview of the most pressing concerns and challenges raised by respondents.

5.1 MANY DISPLACED PERSONS INELIGIBLE OR UNABLE TO OFFICIALLY REGISTER AS IDPS

Although Ukraine's IDP Law reflects international norms in presenting a broad definition of an IDP as anyone who has had to leave their home as a result of the conflict,⁶⁹ local authorities are still applying regulations that restrict the registration of IDPs to those originating from NGCA. This issue is acutely demonstrated by the case of the displaced persons in Lysychansk.

5.2 REGISTRATION OF PROPERTIES WITH *DE FACTO* AUTHORITIES IN NGCA

The fear of losing vacated property in NGCA through confiscation by the *de facto* authorities or through squatting was a key concern for many IDPs interviewed in GCA. Whilst many IDPs had made arrangements for relatives, friends, or neighbours to live in the vacated properties or to keep watch on them, this option was not practical in every circumstance. The fear of loss was compounded by concerns over the so-called Plotnitsky's decree; in April 2015, the head of the *de facto* authorities in

NGCA of Luhansk *oblast*, Igor Plotnitsky, announced that all properties would be assessed and that displaced people would need to register in person within 45 days of a future announcement to prove their ownership or risk losing their homes.

There are many cases of families being separated between GCA and NGCA of Luhansk *oblast*. One member of the family might stay behind in NGCA to look after the family property. Sometimes the documents for these properties are also separated. For instance, the family member who has travelled to GCA may have taken the documents proving their property rights with them for safekeeping. Some displaced homeowners have taken the precaution of entrusting their properties in NGCA to the care of friends, neighbours and relatives. Some of those interviewed are worried that they might have their properties confiscated if they are unable to present the original documentation and appear in person for registration before the *de facto* authorities in Luhansk.

Such an undertaking can be costly, arduous and involve time-consuming and complicated bureaucratic hurdles under the Temporary Order of 21 January 2015 which requires an approved travel pass in order to cross between GCA and NGCA (see section 4.3). To travel through the contact line also depends upon a frequently shifting security situation. Interviewees reported taking circuitous routes through regular border crossings between GCA and the Russian Federation. People would then enter NGCA from crossing points with Russia. Although lengthy and costly, the use of such routes was often seen as preferential as it did not involve applying for any special passes and did not require travelling through highly insecure areas. However, using this route can risk the imposition of fines upon re-entry to Ukraine for leaving the country through unofficial border crossings (i.e. from NGCA to Russia).

69 See above para. 3.1

CASE STUDY: THE DISPLACED PERSONS IN LYSYCHANSK

Anatoly (64) is a retired engineer and the elected representative of the Initiative Committee in Lysychansk. Lysychansk is a town in GCA that is now some distance from the frontline but was subject to fighting and occupation during the offensives of 2014. Formed on 26 July 2014 by the displaced residents of 108 apartments whose apartment block was destroyed just two days earlier by heavy shelling, the Initiative Committee seeks to secure compensation and permanent housing from the authorities. For a year Anatoly has spearheaded the Initiative Committee's frustrating fight for their rights against labyrinthine layers of official bureaucracy and red tape.

"The main problem," explains Anatoly, whose elderly parents are amongst the displaced, "is that Ukrainian law has no provision for people like these. They form a new social category that has no precedence."

Although the displaced persons of Lysychansk were rendered homeless by the conflict they are not considered to be IDPs under Ukrainian law as they still live in the same town. IDPs are currently only registered by some authorities if they have left their places of origin in NGCA and fled to GCA. Despite many having lost all of their possessions as well as their homes, the IDPs from Lysychansk are not entitled to register and hence are unable to receive the social benefits that registered IDPs are entitled to. "Anyone can live if they can get 20 certificates," says Anatoly using a popular Soviet-era saying to explain the bureaucracy they face, "our problem is we can't even get one." Although IDPs in Lysychansk currently live with friends and relatives or in temporarily allocated public accommodation, these are not a permanent solution to their needs. Being hosted is putting enormous strains on both parties. Charity and IDP's own assets are running out. The term of the temporarily allocated accommodation that many of the displaced inhabit is set to expire after one year and officials say it cannot be extended.

However, true to its moniker the Initiative Committee has not been short of ideas to help address their situation. They have lobbied every possible level of officialdom from the local housing and utilities officer right up to the country's president. They have identified viable abandoned properties and offered to find their own sponsors to renovate them. They have appealed to a range of political parties for support and have invited the media, approached the international community and initiated a law suit against the local authorities at their own cost.

It has been an uphill struggle for Anatoly and the Initiative Committee. The municipality has said it could take years for them to acquire an abandoned property, whilst appeals to government departments at every level are repeatedly referred on to other departments. Anatoly complains that when the media came they filmed for hours and finally only showed isolated shots of the damaged building, sometimes even citing it as belonging to an entirely different location. They have been told that they would one day receive compensation but not until a vaguely defined end of the conflict. With over 70 percent of the residents being elderly pensioners, such a prospect offers little hope or consolation.

"The authorities don't really care about these people," says Anatoly, "and no-one wants to take the responsibility to help them." Anatoly points out that soon the town of Lysychansk will be celebrating "the first anniversary of its liberation from anti-government forces". "What's to celebrate for us?" he asks, "A year of displacement, frustration and despair."



CASE STUDY: THE COST OF SAFEGUARDING A PROPERTY

Having friends or relatives keep an eye on vacated property in NGCA is not an option for everyone and many IDPs are faced with having to travel back regularly. The pressure to undertake such a journey is likely to increase amongst IDPs if and when Plotnitsky's decree is enforced. The prohibitive cost of such an undertaking is put into perspective by the case of Olga* who is originally from Luhansk city but living as an IDP with relatives in the village of Kabychivka, near Markivka in GCA of Luhansk oblast. A pensioner, receiving just 1,200 UAH (USD 56) per month, she needs to spend nearly all of this on a return trip via Russia to inspect her property. With such a meagre income, Olga cannot afford to travel regularly. However the fear of losing her property is such that Olga is willing to struggle and make sacrifices to try and undertake the trip once a quarter.

*Name changed to protect the identify of interviewee

5.3 PAYMENT OF UTILITIES TO THE *DE FACTO* AUTHORITIES IN NGCA

Alleged demands for utility payments by the *de facto* authorities in NGCA are an area of concern. IDPs reported that they had received demands for utility payments for the properties they had left behind, even if these were unoccupied. IDPs are concerned that if they fail to pay utility demands on vacated properties that they risk having their properties confiscated, especially in the case of social housing rented from the municipalities in NGCA.

However, Article 8 of the Ukraine's Temporary Measures, establishes "*a moratorium on accrual of fines for late payments for municipal and utilities services, accrued for citizens of Ukraine residing in population centers determined in the list approved by the Cabinet of Ministers of Ukraine where the*

anti-terrorist operation was carried out".⁷⁰ There is of course a difference between what the Government of Ukraine legislates for application in NGCA and what happens on the ground in relation to the policies of the *de facto* authorities in these areas. IDP respondents returning to NGCA noted that they had been able to approach local utility authorities with evidence that they had not been resident for a

period of time and were able to secure a waiver on payments for that period.

The following case study highlights two different approaches by IDPs to utility payments in NGCA, neither of whom were aware of the moratorium on fines for late payments for utilities in NGCA.

CASE STUDY: A TALE OF TWO BILLS

Alexander and Vitaly are both from Luhansk City and living in Kabychivka as IDPs. They would both like to return one day when there is peace. Each of them has received demands for utility bill payments from the *de facto* authorities in NGCA for their vacated properties. Although both of them are frightened of losing their properties, their responses are very different. Vitaly has decided to pay whereas Alexander had refused.

Utility bills in Ukraine comprise of heating, electricity, water and gas. Under Ukrainian law, people who temporarily vacate their properties do not have to pay for utilities during their period of absence as long as they notify the relevant authorities in advance through the correct procedure. Unfortunately, such administrative procedures in Ukraine are often complicated and time-consuming. Fearing for their family's safety and with the local administration also fleeing the fighting in Luhansk City, neither Alexander nor Vitaly had the time or opportunity to notify the authorities.

Recent IDP legislation enacted by the Ukrainian Government has also made provision for social housing rental and utility payments to be suspended for those displaced from NGCA. However, the *de facto* authorities in NGCA of Luhansk *oblast* see utility payments as a valuable income stream for their cash-strapped administration. According to Alexander and Vitaly, the *de facto* authorities have sent every household a demand for a lump-sum utilities payment covering the past six months. This has been followed up by allegations of threats that those who fail to pay risk having their properties confiscated.

The bills are not inconsequential amounts. Vitaly's six month payment comes to UAH 3,500 (USD 158). Considering the average monthly salary in Ukraine of around UAH 4,000 (USD 180),⁷¹ this is a huge amount for anyone. For an IDP surviving on social benefits, it can be insurmountable.

Why then has Vitaly decided to pay whilst Alexander is refusing? Alexander's apartment is privatized. He owns it. This he feels gives him at least some security. The other issue is the cost. Alexander's company relocated to Severodonetsk where he now works and rents a dormitory room during the week. With a wife and two small children to support as well as helping out the relatives who are hosting them, Alexander regards the notion of also paying utility bills for a place he does not inhabit as absurd.

Vitaly, on the other hand, has social housing in Luhansk City. That means he rents his apartment from the municipal authorities. Although a tenant, Vitaly has spent a considerable amount of his own money over the years on improvements to his apartment. He is reluctant to see that investment go to waste. Most of his possessions are still in the apartment and he has heard rumours that the properties of some utility bill defaulters are being looted.

He also feels that being a social housing resident makes him more vulnerable to having his apartment repossessed by the new *de facto* municipal authorities. These bills are expensive and not required of IDPs under Ukrainian law. Vitaly, however, feels he has no choice as the alternative is to risk losing everything he has ever worked for.

70 Verkhovna Rada of Ukraine, Law of Ukraine 'On Temporary Measures for the Anti-Terrorist Operation Period', September 2nd, 2014 (Enacted October 15th 2014) No. 1669.VII <http://zakon5.rada.gov.ua/laws/annot/en/1669-18>

71 National Bank of Ukraine

5.4 ABSENCE OF FORMAL WRITTEN TENANCY AGREEMENTS

Rented accommodation is the most prevalent form of IDP housing in Luhansk *oblast*. According to the recent REACH assessment for the Shelter Cluster, some 50 percent of IDPs are renting in Luhansk *oblast*. In the other four *oblasts* in eastern Ukraine host to the vast majority of IDPs, the numbers are even higher, ranging from 52.5 percent in Donetsk to 73.4 percent in Zaporizhzhia. Renting is also the least sustainable and most vulnerable option in the context of long-term displacement as it depletes capital savings and assets, whilst the absence of tenancy agreements leaves IDPs vulnerable to price increases and evictions. Across the region, REACH found that 87.4 percent of those renting had no lease agreement. In Luhansk *oblast*, approximately 65 percent of IDPs renting were paying between UAH 250 and UAH 1,000 a month in rent with 12.5 percent paying between UAH 1000 and 2000. Even at the lower rate of UAH 250, this still represents more than half of the registered IDPs' allowance for an adult of working age.

It was reported that the majority of landlords are unwilling to enter into tenancy agreements and prefer informal agreements because they fear that this formalisation will risk having their rental income taxed, invite penalties for tax avoidance and open the door for quality checks and controls. Landlords were also reported to be concerned over the risk of not being able to get their tenants to leave and end up with non-paying squatters. Some IDP respondents related experiences where tenants had only accepted them on condition that they did not register as IDPs. This situation creates a number of vulnerabilities for IDP tenants who can be subject to renting low quality accommodation with no agreement on repairs, price hikes and summary evictions. They may also be forced to use their savings and sell off assets to pay for the accommodation if the landlord refuses to let them register as IDPs. Of particular concern is the risk of being evicted in the event of non-payment. The law of Ukraine on renting only allows a landlord to evict a tenant after 3 consecutive months of non-payment and upon production of a court order (see Section 4.2). Monthly state benefits for IDPs which are intended to supplement rent are frequently paid intermittently and so IDPs relying on such income may not always be able to pay on time.



5.5 MILITARY OCCUPATION OF CIVILIAN PROPERTIES

The expropriation of properties within frontline communities appears to be taking place for strategic reasons, to billet troops and to store weapons in GCA, according to some respondents who reported losing access to their properties in these areas. Which military units are responsible (i.e. regular or volunteer forces), whether such issues occur in NGCA, and the overall extent of the problem are not known. Expropriation and occupations were reported to have occurred in relation to residential houses, business properties and private agricultural lands.

Such incidences are under-reported by the civilian owners for a number of reasons. These include fear of repercussions, a sense that they are contributing to the national cause, and a feeling of resignation that complaining would get them nowhere. In incidents that are known to have taken place, no compensation, alternative accommodation or official documentation was provided to the owner. Some respondents complained that even though their houses had been occupied, the owners were still expected to pay for the utilities that the soldiers were using.

Militarisation is also affecting access to properties even if there have been no expropriations. In the village of Zolote-3, it was reported that the military had sealed off one street in the middle of a residential area. Although the properties had not been occupied by the military, the street was leading to a military encampment and homeowners were not allowed to stay there, although they could visit on a daily basis. Respondents from a number of villages reported that their moveable property such as furniture, electric and food items had been looted.

CASE STUDY – CONFISCATION AND LOSS OF AGRICULTURAL LANDS

Before the conflict, Anatoly (56) was a prosperous and successful farmer in Popasna. He rented 1,500 hectares of wheat fields from the local council and employed hundreds of workers. The conflict has had multiple impacts on his land. Some of his land is now in NGCA. Parts are strewn with unexploded ordnance, making farming unsafe and some of Anatoly's land has been occupied by the military to build defensive positions. Of the original 1,500 hectares, he has lost the use of 860 hectares.

This has resulted in Anatoly having to lay off 110 agricultural workers. Such job losses have a huge impact on local communities and increase the vulnerabilities of families already struggling to survive under extremely arduous conditions along the contact line.

Added to Anatoly's difficulties are rental hikes and taxes on his land. Even though he does not have access to the majority of his land, he is still obligated to pay taxes to the Ukrainian government on it. "I owe 300,000 UAH in taxes for this land," he explains. "That's not a small amount. It's 200 times the minimum wage for land we can't even access because of the military fortifications, lots of shells and it's partly in nongovernment controlled territory".

He is constrained by the terms of the rental agreement and is unable to relinquish the land and his plots have already been subject to massive rental hikes that seriously undermine the profitability of his business. Added to Anatoly's misery, his local bank has gone into liquidation and he has lost all his savings.

5.6 LACK OF ACCESS TO LEGAL REMEDY OR REPRESENTATION

The Ukrainian government judicial system is not currently functioning in NGCA and notaries are no longer authorised to operate there. This has significant implications for HLP rights in terms of access to legal assistance to carry out the necessary procedures for inheritance of land, land transfers, sales and purchases. It also impacts on unresolved pre-conflict land dispute cases in NGCA of Luhansk *oblast*. There are currently no notaries operating in NGCA with authority from the Government of Ukraine. Anything signed by a notary in these areas would not be legally recognised in Ukraine.

To conduct any legal dealings involving land and property held in NGCA, it is necessary for the parties to conclude the necessary paperwork through a notary in GCA. The signing of any agreements or documents would require the parties involved to do so on territory under the full control of Ukrainian authorities. This therefore involves considerable time, effort, expense and the negotiation of a lengthy and complex bureaucracy in applying for permission to obtain travel passes. This process would render inheritance claims problematic as probate requires the estate of a deceased person to be assessed which would normally involve a physical inspection

of any properties involved.⁷² However, amendments to certain legislative acts supplementary to the Temporary Measures remedy this problem.⁷³ If the last place of residence of the testator lies in NGCA, then inheritance proceedings can be initiated anywhere in GCA, provided the property records are available.

5.7 LACK OF AWARENESS OF HLP RIGHTS

Interviews and focus group discussions with IDP respondents as well as officials revealed that there was a general lack of awareness of HLP rights and responsibilities. At an official district and municipal level, there was an understanding of the system of benefits and registration process for IDPs. However, this did not translate into a broader understanding of the link between existing Ukrainian legislation and the international normative framework on HLP rights, as set out in the *Pinheiro Principles*. Furthermore, because much of the IDP related legislation in Ukraine has been developed reactively as the conflict progressed and new issues emerged, it is somewhat piecemeal and contradictory. Amongst

72 Notary Chamber of Ukraine, Inheritance: <http://npu.in.ua/en/for-the-population/documents-required-for-registration/inheritance#.Vh5f1mQrJxh>

73 The law on amendments to some legislative acts of Ukraine on providing the right to inheritance (12 February 2015), available online: <http://zakon5.rada.gov.ua/laws/show/1207-18> [accessed: 28 December 2015].

CASE STUDY: AN INHERITANCE CLAIM

Tatiana is a displaced and widowed pensioner originally from Horlivka in NGCA. She now lives in a village within Kharkiv *oblast*. When her husband died she thought that she would not be able to proceed with the transfer of his estate due to all the documents being left behind in Horlivka. Still grieving from her husband's loss and unable to cope without the support of her daughter, Tatiana was not emotionally well enough to negotiate all the bureaucracy required to undertake the journey back to sort out the inheritance.

Fortunately she sought assistance and an NRC legal aid counsellor from Kharkiv advised her that amendments to the law on inheritance under the Government's Temporary Measures meant that her claim could now be processed by a notary anywhere in GCA. Tatiana was able to apply to a local notary where she now lived, have the inheritance claim registered and the new ownership records transferred to her name, without the stress and cost of returning to Horlivka.

affected populations, there were varying degrees of knowledge and understanding of the laws. Some respondents, such as the members of the *Initiative Committee* of Lysychansk (see case study above) had researched their rights thoroughly and had a strong sense of what they were due. However, they were frustrated by the limited understanding by the authorities, the unwieldy bureaucracy that they had to negotiate, and the lack of any clear responsibility or accountability within the government administration.

At the other end of the spectrum, there were many IDPs who were unaware of their rights, where to seek advice and how to assert claims. It was evident from interviews that understanding and accessing HLP rights was particularly problematic for people with special needs such as unaccompanied minors, people with mental and physical disabilities, the sick and older people. Whilst the NRC legal aid centre in Severodonetsk and mobile units provide a focus for legal support and advice on HLP issues, there is a broader need for information, and knowledge on the availability of such services is limited. The HLP-related information needs amongst IDPs included where to find social housing and how to register for support. Given the abuses of HLP rights noted above, the awareness amongst other key actors such as the military and landlords is assumed to be low, but this requires further research.

5.8 LACK OF COMPENSATION OR RESTITUTION FOR DAMAGED/DESTROYED PROPERTY

A large number of IDP respondents reported that their houses and properties had been damaged and destroyed. Conflict-related damage has occurred in both NGCA and GCA. IDP and conflict-affected communities, especially those living along the contact line, were particularly concerned with whether, when and how they would be compensated for their loss. According to some IDP respondents in GCA who attempted to file claims for damages, they were told by local authorities that they would only receive compensation once the conflict was over.

Communities living along the contact line had not received any compensation or support for the reconstruction of properties. Although money had been allocated to municipalities for reconstruction purposes from the *oblast* authorities via central government, the amounts were reportedly inadequate to address the reconstruction of private dwellings. Instead, such funds had been mainly earmarked for repairing public buildings and infrastructure.⁷⁴ Where reconstruction and repairs were taking place, it was through the intervention of international organisations such as NRC and ICRC. Claims for repairs through insurance policies were not seen as an option as the majority of private houses had not been covered by insurance. Where insurance policies had been taken, claims arising from conflict were not included in the policies' coverage. There has yet to be a comprehensive assessment of property damage across both GCA and NGCA.



74 Key informant interviews with local government officials in frontline communities.

5.9 PAYMENT OF MORTGAGES FOR PROPERTIES IN NGCA

The Law of Ukraine “On Temporary Measures for the Anti-Terrorist Operation Period” states that any mortgaged property within the anti-terrorist operation territory i.e. NGCA, is temporarily protected during the operation period and for six months after it ceases, from being foreclosed, repossessed and sold by the lender:

“According to Article 9 of the Law, during the effect of this Law, mortgaged immovable property located on the anti-terrorist operation territory and owned by citizens of Ukraine (including natural people – entrepreneurs) or legal entities – small and medium businesses, is temporarily exempt from the provisions of Article 37 (in the part of execution of the mortgage holder’s right to assume ownership of the mortgaged property), Article 38 (in the part of execution of the mortgage holder’s right to sell the mortgaged property), Article 40 (in the part of eviction of residents from mortgaged residential buildings and premises, where a court resolution to foreclose is available), and Articles 41, and 43-47 (in the part of selling mortgaged property through public auction) of the Law of Ukraine “On Mortgage”.⁷⁵

Although this Article does not specifically suspend mortgage repayments on properties within NGCA, it implicitly recognizes that repayments are going to be problematic and removes the risks normally associated with default on payments.

However, the Temporary Measures make no provision for properties within GCA that are conflict affected (in frontline communities and ‘grey’ zones) or those that were previously damaged or destroyed during earlier offensives inside Ukrainian territory.⁷⁶ Furthermore the Temporary Measures do not take into account whether mortgages need to be repaid at all on damaged or destroyed properties.

75 Verkhovna Rada of Ukraine, Law of Ukraine ‘On Temporary Measures for the Anti-Terrorist Operation Period’, September 2nd, 2014 (Enacted October 15th 2014) No. 1669.VII <http://zakon5.rada.gov.ua/laws/annot/en/1669-18>

76 On 2 December 2015 the Cabinet of Ministers by its Order No. 1275-r amended the Annexes 1 and 2 of its Decree No. 1085 of 7 November 2014 to include settlements along the contact line in GCA within the list of settlements from which the IDPs can register in line with the Cabinet of Minister’s Decree No. 509. On 17 December 2015 the Appeals Court of Artiomovsk, in applying the Order No. 1276-r held that the Bank cannot charge the fine for delayed payment of mortgage.

The Ukrainian Law on Mortgages states that “*the risk of accidental loss or damage of the subject of mortgage shall be incurred by the mortgagor, unless otherwise provided by the mortgage agreement.*” The Law goes on to state that the mortgagor is responsible for ensuring that mortgaged properties are insured. Article 8 states: “*A mortgagor shall be obliged to insure the subject of mortgage in full amount against the risks of accidental destruction, loss or damage.*”⁷⁷ The risk of losing a mortgaged property generally lies with the borrower or mortgagor. The responsibility of the mortgagor to apprise the mortgagee of any threats or changes in the condition of the property is outlined in Article 10: “*to inform the mortgagee duly in time of any threat of destruction, damaging, spoiling or deterioration of the subject of mortgage condition, as well as of such other circumstances that may have a negative effect on the ownership right of the mortgagee under the mortgage agreement.*” Article 17 sets out the conditions under which a mortgage agreement can be terminated. These include “*destruction (loss) of the building/structure transferred on mortgage, unless it is restored by the mortgagor. In case the subject of a mortgage agreement is a land parcel and a building/structure located on it, and the building/structure is destroyed (lost) the land parcel’s mortgaged shall not be terminated.*” However, the majority of respondents reported that their properties had not been insured even when mortgaged. For those that were, there will be questions regarding whether the risks insured provided coverage for the type of conflict taking place in Ukraine.

A number of respondents noted that they had outstanding mortgages on their properties in NGCA. This was an issue for both people remaining in NGCA, as well as for those who had fled to GCA. Within NGCA, Ukrainian banks have ceased to operate so questions exist about how to make payments and where the title deeds held by the banks as collateral were now being kept. For some IDPs, there are questions concerning the affordability of continuing mortgage payments for vacated properties. Servicing mortgage debt in one’s place of origin whilst also making rental payments for alternative accommodation is unsustainable for low income groups and rapidly depletes savings and other assets. IDPs were concerned about whether they had to continue making mortgage repayments for properties that were destroyed or severely damaged and no longer inhabitable. Some respondents reported that their banks had temporarily

77 Law of Ukraine “On Mortgage” (adopted 2003, enacted 2004), Article 8

CASE STUDY: A DREAM DESTROYED?

Anna and Daniel are a young married couple displaced from Luhansk city, unemployed and currently living with relatives in Bilovodsk. Two years before the conflict erupted they put a deposit down on a new apartment block that was being constructed under the auspices of a government sponsored housing scheme for young people in Luhansk. It was to be their dream home. For the first year they paid regular instalments and watched eagerly as the apartment block started to come up.

About a year before the fighting started, construction stopped. Anna and Daniel waited to see if it would restart. It didn't. They then began making further inquiries and discovered that the housing scheme that had sold them the pre-construction apartment had closed and vanished. Next they sought out the construction company, only to find out that it hadn't been paid for the work it had done and was now bankrupt.

Anna and Daniel and another 40 people who had also invested in their future dreams were wondering what to do next when the conflict started and they suddenly found themselves displaced. Having invested the equivalent of over USD 10,000, Anna and Daniel's life savings are gone. They are displaced, jobless and have only a semi-constructed shell of an apartment remaining in a contested territory where they don't want to live until a peaceful settlement to the conflict prevails. Their options seem limited and their sense of hopelessness visible as they narrated this story.

suspended mortgage repayments for properties located in NGCA. However, others believed that they were still required to pay.

5.10 DAMAGE AND DESTRUCTION OF LOCAL BUSINESSES



A number of local businesses have been physically damaged by the conflict. Researchers for this study visited four small and medium-sized enterprises in towns along the contact line. All of them had received direct hits from shelling and their infrastructure, including buildings and machinery, had been severely damaged. The two smaller businesses, a shop and a bakery, had been able to carry on production despite the damage and were in the process of making repairs. The two larger businesses, a sunflower oil refinery and a bitumen plant, had been forced to lay-off their workforce and close down with little prospect of reopening. None of the four businesses had received any support or compensation from the government. Local government sources said that there was no policy or budgetary provision to support businesses affected by the conflict. Only one out of the four businesses had had an insurance policy but was unable to claim as conflict-related damage was not covered under the policy. All of the businesses visited were located in one town and the local government representatives reported that other business premises had been damaged. The extent of conflict-damaged businesses in the region is unknown as it has not been comprehensively assessed.

5.11 LACK OF SUFFICIENT AND ADEQUATE HOUSING

The lack of sufficient and adequate housing is an issue affecting the general population throughout Ukraine. According to UNECE, much of the country's housing stock is old and badly in need of repairs and renovation and there has been little public investment in housing for decades.⁷⁸ Social housing provision for the most disadvantaged sectors of society is particularly limited across the entire region due to increased demand for housing, alongside a financial crisis that has limited the availability of funding and finance for construction. Recent years have seen large numbers of construction projects become abandoned due to spiralling costs (see case study below).⁷⁹

For IDPs, the problem is compounded. Many of the urban centres that faced large-scale inflows of IDPs during a relatively short period of time during the height of the conflict were caught unprepared for providing enough transitional, temporary and longer-term accommodation to meet the demand. Whilst the rental of private accommodation (61.7 percent) and being hosted with family and friends (33 percent) has accounted for the majority of IDP housing, those unable to secure such options have been accommodated in hotels (mainly on a self-pay basis for the more affluent) and variety of collective centres, dormitories, resorts and sanatoriums provided by the municipality in both a free (13.7 percent) and rent paying capacity.⁸⁰ The vast majority of registered IDPs receive government benefits (discussed above) intended to help supplement accommodation costs and in June 2014⁸¹ the government launched an accommodation website⁸² designed to help IDPs find available housing with search facilities by location in the Ukrainian and Russian languages.

Many of the collective centres are overcrowded and unfit for winter residence. Resorts and sanatoriums are only summer-time residences lacking adequate

heating and insulation. Local government officials for this study reported that they did not have enough available housing stock at their disposal and had already allocated everything that was available. Some respondents believed that there was available housing but that the municipalities lacked either the political will to utilise them or the budgetary provisions to get them fit for occupation. Some of the collective sites visited for this study had serious inadequacies such as no separate toilet facilities for men and women, no privacy in toilet cubicles with doors missing and limited hot water supply necessitating a roster system for taking shower. One woman resident reported that they were only able to take a shower once every 3 days.⁸³

A number of IDPs lamented the prevalence of abandoned properties in GCA of Luhansk *oblast* and wondered why they could not be allocated for displaced people. Local government officials acknowledged that there were indeed large numbers of abandoned private and municipally owned premises that could, in principle, be re-allocated to IDPs, but there was no official policy mandating them to do this. Even if such a policy were in place, local government officials opined that the legal process of acquiring such properties for municipal use through the courts could take a number of years.⁸⁴ Indeed there would be intrinsic HLP issues in attempting to acquire privately owned properties that have been abandoned. However, with political will the utilisation of public properties should be more straightforward.

78 UNECE (2013) op cite p.13

79 United Nations Economic Commission for Europe (2015) Social Housing in the UNECE region: models, trends and challenges.

80 REACH/Shelter Cluster Ukraine (August 2015) op cite

81 OSCE (August 2014) Thematic Report: Internal Displacement in Ukraine <http://www.osce.org/ukraine-smm/122620?download=true>

82 <http://www.migrants.gov.ua/>

83 Focus group discussions and individual Interviews at collective centres in Severodonetsk.

84 Individual interviews in Severodonetsk and Popasna.

CONCLUSIONS

The above challenges and barriers to securing HLP rights for IDP and conflict-affected communities in eastern Ukraine reveal gaps in stakeholder access to HLP information and in the scope of the current legal provisions. They also reveal gaps across a range of urgent cross-cutting shelter and HLP issues – tenancy agreements, gender and age sensitivity, winterisation, transitional accommodation requirements – that need to be addressed first in order to avoid a deterioration of HLP rights for Ukraine's conflict-affected population.

Lack of adequate housing

Both government sources and IDP respondents noted the lack of sufficient and adequate housing. There is a shortage of temporary as well as long-term or permanent housing. Where some temporary or transitional housing has been utilised for IDPs, much of this is overcrowded, subject to poor conditions, or only habitable in summer. Renting is complicated by landlords being unwilling to rent to registered IDPs for fear of being unable to evict them at the end of the agreement period or facing additional declared tax burdens from the income.

Opportunities exist to explore the utilisation of unused municipal properties to house IDPs. There are also possibilities of increasing incentives and benefits for landlords willing to rent their properties to IDPs. In the long term, housing issues could be discussed in the context of permanent local integration as a durable solution if the current conflict situation becomes protracted. Given the overarching chronic state of housing in Ukraine as a whole, there may be opportunities through private-public partnerships for addressing both general population needs and IDP specific housing needs through a unified approach.

Confusion in application of IDP legislation

The enactment of IDP laws on a reactive and piecemeal basis has resulted in significant gaps in legislation and confusion amongst both officials and IDPs. The lack of legislative coherence can be addressed by introducing an overarching IDP policy that consolidates and simplifies existing IDP laws whilst addressing any deficits. Simplification and rationalisation of the system will provide the platform for introducing more effective ways of communicating information on HLP rights and accommodation services to those in need.

Risk of eviction for IDPs in rental accommodation

Rental accommodation is the most prevalent housing solution amongst IDPs. However it is highly unsustainable and risk prone. The main tenancy issue affecting IDPs is the absence of formal written agreements between the landlord and the tenant. Landlord fears and prejudices over officially renting to registered IDPs and the shortage of available housing mean that IDPs can face unacceptable choices between accessing benefits or securing shelter. Opportunities exist to address this dilemma and strengthen security of tenure by introducing incentives, benefits and subsidies for landlords and host communities renting to IDPs.

Fear of loss of property in NGCA

Those who have fled NGCA may face uncertainties regarding the future of their properties if they fail to return to NGCA. Any issues relating to land disposal, acquisition and inheritance related to NGCA properties incur significant cost and effort in traveling to GCA to conclude formalities, in order to be legally binding under Ukrainian law. Access and mobility to and from NGCA are key factors affecting HLP rights whilst an easing of travel restrictions would enhance the capacity of displaced and conflict-affected persons to realise their rights. Increased awareness of HLP rights amongst authorities in GCA and *de facto* authorities in NGCA would also help establish the foundations for local engagement on securing and improving HLP rights.

Occupation and expropriation of property

Amongst frontline communities there is evidence of military expropriation and occupation of properties. These are mostly comprised of women and older vulnerable individuals who continue to live in insecure environments. This is because they have no other coping mechanisms to fall back upon besides living in their own homes with access to established local livelihoods and the support networks of their neighbourhood friends and families. Many of these have the additional burden of playing host to IDPs from the other side of the contact line when their communities were geographically split due to the conflict. Their particular circumstances and special needs should be recognised through additional support and access to benefits. Increased awareness of HLP laws amongst the military could also provide a basis for engagement with them on HLP issues.

Uncertainty over restitution and compensation procedures

Questions and sensitivities exist over introduction of legislation enabling restitution and compensation for damaged and destroyed properties. The extent of the need and the costs involved are not fully understood. Current draft legislation is limited to officially registered IDPs. Comprehensive mapping of properties in both NGCA and GCA will help to clarify the situation and an adherence to the *Guiding Principles on Internal Displacement* and the *Pinheiro Principles* in legislation will ensure the right to restitution is extended to all people whose properties have been damaged or destroyed as a result of the conflict.

Mortgage Banks and Insurance Companies

Many properties in the conflict-affected areas were purchased under state and private sector bank mortgages. People are generally unaware of the provisions under the Government's temporary measures that secure the rights of mortgagors for properties in NGCA in the event of delayed payments. Some respondents were even making payments for properties in NGCA. Many did not know what they were required to do, but noted the additional burden caused by mortgage payments.

Although the majority of conflict-affected properties (private dwellings and businesses) do not appear to have been insured, those that were have been unable to claim compensation. New business operating within frontline communities are experiencing difficulties in obtaining insurance because the providers have reassessed the risks posed by the conflict. These issues represent significant HLP rights concerns and impact upon a range of associated issues such as IDP debt and coping strategies, local economic development and employment in conflict-affected areas.

As the conflict approaches the end of its second year, the government and humanitarian agencies will need to explore and plan their responses to a range of possible future scenarios. Depending upon the trajectories of the conflict, Ukraine could be facing a protracted displacement situation, the beginning of large-scale voluntary returns, or something in between. Whatever the outcome the government and humanitarian agencies will need to develop a coherent durable solutions policy and approach that integrates the strengthening of HLP rights whilst issues of compensation and restitution will ultimately need to be addressed.

RECOMMENDATIONS

To the Government

1. Conduct a review of all legislation pertaining to IDPs in order to harmonise existing and draft laws and put into place simplified mechanisms to implement them.
2. All those forcibly displaced from conflict-affected areas in NGCA and GCA should be permitted to register as IDPs and benefit from compensation, in accordance with the definition of IDPs in Ukraine's IDP law, and consistent with the *Guiding Principles on Internal Displacement*.
3. Extend the application of Temporary Measures suspending mortgage repayments for mortgagors within GCA and frontline communities who have property that has been damaged or destroyed as a result of the conflict.
4. Noting that there is a deficit of suitable housing for IDPs, efforts should be made to identify, map and utilise unused municipal properties for IDPs as temporary and permanent housing.
5. Recognising that landlords are reluctant to rent to IDPs because of tax implications, establish a tax break and incentive programme for landlords who rent to IDPs.
6. Establish a system of benefits or subsidies to support host families who provide accommodation services to IDPs.
7. Simplify procedures for civilians to cross between GCA and NGCA, open new checkpoints, and bring the orders regulating movement of civilians and goods in compliance with the Constitution and laws of Ukraine as well as international law⁸⁵
8. Ensure that armed units are aware of their responsibilities under international law to respect the HLP rights of civilians, especially those in frontline communities residing in close proximity to the contact line.
9. Provide for suspension of mortgage repayments on properties severely damaged or destroyed during the conflict.



To the *De Facto* Authorities in Non-Government Controlled Areas (NGCA)

10. Enable the resumption of humanitarian operations in NGCA in order to provide essential humanitarian assistance to conflict-affected communities.
11. Allow people who have left NGCA to apply for and secure a suspension of utility payments on their properties for the period of their absence.
12. Provide for suspension of mortgage repayments on properties severely damaged or destroyed during the conflict.

⁸⁵ OCHA, Ukraine Humanitarian Bulletin, Issue 3, 1-31 October, 2015, http://reliefweb.int/sites/reliefweb.int/files/resources/humanitarian_bulletin_ukraine_-_issue_03.pdf



To UN Agencies, International NGOs and Other Humanitarian Actors

13. Acknowledging the need for a better understanding of the extent of damaged, destroyed, occupied and expropriated property, and the impact on the most vulnerable groups, conduct an assessment of HLP in NGCA. This should include an assessment of any outcomes of the announcement by *de facto* authorities to confiscate properties vacant for 45 days.
14. Undertake further research into the particular HLP challenges of displaced women, who comprise 63 percent of IDPs, as well as the situation facing older more vulnerable people remaining in frontline communities.
15. Recognising the possibility that displacement could become protracted, engage the Government with the aim of developing a durable solutions policy that incorporates the intentions of IDPs and conflict-affected populations, and supports their HLP rights in accordance with international law.
16. Noting the needs of the *de facto* authorities to better understand and act upon their obligations under international law pertaining to HLP rights, where possible, engage with the *de facto* authorities to educate key decision makers and administrators on applicable standards.
17. Noting the need to improve security of tenure for IDPs living in rented accommodation, engage the Government to explore options such as a tax waiver on the income for landlords renting to IDPs.

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