

Parallel report from civil society' organization for the Committee on Economic, Social and Cultural Rights (CESCR)

for the list of issues prior to reporting (LOIPR) within the framework of the next periodic report of Ukraine to CESCR

Submitting NGO



CRIMEAN
HUMAN RIGHTS
GROUP

The Crimean Human Rights Group (CHRG) is an Ukrainian NGO of Crimean human rights defenders and journalists aimed at supporting the observance and defense of human rights in Crimea through attracting a wide attention to the issues of human rights and international humanitarian law on the territory of the Crimean Peninsula as well as searching and elaborating instruments for defending human rights in Crimea.

The main objectives of the CHRG are monitoring and documenting human rights violations and war crimes in Crimea (since March 2014).

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Part 1. Situation with respecting the rights of internally displaced people (IDPs) for dwelling facilities acceptable for living, and standard living conditions

1. When an international war conflict started, Ukraine has faced a challenge of mass movement of civilians (most being citizens of Ukraine) from the occupied territories to the territory controlled by Ukrainian government. More than 1.5 million people became IDPs in Ukraine¹. Internally displaced people (IDPs) have to leave their property and dwelling facilities and arrange their living from scratch on the territory controlled by Ukraine: to look for housing, meals and clothes by themselves.

2. Article 2 of Law of Ukraine 'On securing the rights and freedoms of internally displaced people'² (hereinafter Law # 1706-VII) states that Ukraine shall take any possible actions stipulated by Constitution and laws of Ukraine, international agreements that the Verkhovna Rada (Parliament) has agreed to be bound by, on preventing occurrence of preconditions for forced internal displacement of people, protecting and respecting the rights and freedoms of internally displaced people, creating conditions for such people to return voluntarily to their residence place left or to integrate on a new residence place in Ukraine.

3. Article 9 of Law # 1706-VII states that an internally displaced person shall have a right to create proper conditions for their permanent or temporarily residence, paying for utility services, electric and heat energy, natural gas at the compact settlement places of internally displaced people at relevant tariff rates, set for such services and goods for the people, to be granted a right of possible temporary housing free of charge,

¹ <http://www.unhcr.org/ua/wp-content/uploads/sites/38/2018/06/2018-03-UNHCR-UKRAINE-Operational-Update-FINAL-UA.pdf>

² <http://zakon.rada.gov.ua/laws/show/1706-18>

for six months starting from the day of registering an internally displaced person, by state executive bodies, local authorities and private law entities (provided that the person pays for utility services), with a possible extension of this period for multi-child families, disabled people, aged citizens.

4. Resolution of Cabinet of Ministers of Ukraine # 1094³ of December 16 2015 approved the Integrated State Program for supporting, adapting socially and reintegrating citizens of Ukraine who have moved from the temporarily occupied territory of Ukraine and the anti-terrorist operation areas to other regions of Ukraine up to 2017 (hereinafter the Program).

5. The Ministry for Social Policy is committed to coordinate the Program implementation and report quarterly on the status of achieving the Program actions assigned to the Ministry to the Cabinet of Ministers of Ukraine by the 20th of following month, while other central executive bodies, regional and Kyiv city state administrations shall submit the information on the Program implementation status to the Ministry for Social Policy on quarter basis by the 5th of following month.

6. The Program purpose is to resolve major issues of Ukrainian citizens who moved from the temporarily occupied territory of Ukraine and the anti-terrorist operations areas to other regions of Ukraine, and to reduce a level of social tension among them and in the society; to promote integration and social adaptation of such persons on a new residence place; to support in creating proper conditions for living, rights and potential implementation; to provide social, medical, psychological, and material aid; to establish prerequisites for reimbursing the property (material) and non-pecuniary damage they suffered; to create favorable conditions for their voluntary return to the previous residence places (subject to a complete and actual ceasefire on the territories where governmental bodies can't temporarily exercise their powers).

7. One of the ways to resolve the issues of internally displaced people as indicated by the Integrated Program is welfare support – *'to create utility and welfare conditions required for life's activities of the displaced people, to ensure access to domestic and social infrastructure facilities'*.

8. For achieving Program tasks and actions projects aimed at resolving the displaced people's issues including the construction of permanent, temporary and social housing, inter alia, are to be supported. The actions developed for implementing the Program shall be funded out of State Budget and other sources specified by the laws.

9. An Action Plan for implementing the Integrated State Program for supporting, adapting socially and reintegrating citizens of Ukraine who have moved from the temporarily occupied territory of Ukraine and the anti-terrorist operation areas to other regions of Ukraine up to 2017 is attached to the Program.

10. Pursuant to section 11 'Assurance of right to shelter for displaced people' of the Action Plan for implementing the Integrated State Program for supporting, adapting socially and reintegrating citizens of Ukraine who have moved from the temporarily occupied territory of Ukraine and the anti-terrorist operation areas to other regions of Ukraine up to 2017, the right of displaced people to shelter shall be provided and a package of actions to exercise it has been indicated.

11. For instance, to create a real estate property register, to develop models for its leasing on attractive terms, to draft projects for local community development, to allocate land, according to the established procedure, for building housing facilities for the displaced people, etc.; to create a social housing stock in the cities and towns (hostels) to lease to displaced people on attractive terms, to invest State Budget funds into the settlement infrastructure development subject to allocating land plots for building the housing facilities for the displaced people, to develop and implement projects of building dedicated social settlements, with specific design features, to meet the needs of families with disabled members; to raise cottage settlements for displaced people and other actions aimed at providing the displaced people with shelter. The period for implementing the Action plan is **Years 2016 – 2017**.

12. The CHRГ, on monitoring the status of respecting the housing rights of the internally displaced people from the temporarily occupied territory, addressed the **responsible for implementing Section 11 'Assurance of right to shelter for displaced people' of the Action Plan** for implementing the Integrated State Program for supporting, adapting socially and reintegrating citizens of Ukraine who have moved from the temporarily

³ <http://zakon0.rada.gov.ua/laws/show/1094-2015-%D0%BF>

occupied territory of Ukraine and the anti-terrorist operation areas to other regions of Ukraine up to 2017, **in June 2017** with a request on providing information on its achievement status.

13. The reply received from the Ministry of Finance of Ukraine # 09020-15/28-498/513 of July 6th 2017, stated that **no funds were assigned** in the 2017 State Budget of Ukraine for funding housing programs to shelter the internally displaced people.⁴

14. The Ministry of Regional Development, Construction and Housing of Ukraine, letter # 8122-36-17 of July 5th 2017, informed that the Integrated Program did not specify an amount of funds required for implementing its actions. The Ministry also referred to other bodies, namely the Ministry of Social Policy of Ukraine as Project Coordinator, and the Ministry of Temporary Occupied Territories and Internally Displaced Persons of Ukraine **that was not named at all to implement actions indicated in the Action Plan**.⁵

15. Replying to the CHRG request on providing the information on the progress with implementing the Integrated State Program, the Ministry of Social Policy of Ukraine, letter # 98/0/108-17/221 of 6 July 2017, did not provide any information and referred to the Ministry website.⁶

16. Reviewing the section 'Information for Internally Displaced People': 'Report' of the Ministry of Social Policy of Ukraine⁷, it was found out that reports on achieving Program section 11 in 2016 and 2017 were produced just for show, and did not contain any detailed data on providing the internally displaced people with shelter in fact. Though this could be explained.

17. As stated in Section '**To Section 11.1 of Action Plan**', **reports for 2016 QQ 1-4 and reports for 2017 QQ 1-4**, published at the Ministry of Social Policy website, '**no State Budget funds are assigned** for the Ministry of Regional Development, Construction and Housing in 2017 to implement actions aimed at achieving the Program, including keeping the real estate register'. This is also confirmed by Ministry of Finance of Ukraine letter # 09020-15/28-498/513 of July 6th 2017, upon the CHRG request, saying that '**no funds are assigned** in the 2017 State Budget of Ukraine for funding housing programs to shelter the internally displaced people'.⁸

18. This conclusion is supported by reviewing the providing of Laws of Ukraine 'On State Budget of Ukraine for 2016', and 'On State Budget of Ukraine for 2017', that **did not state at all any expenditure** to implement actions to provide the IDP with shelter within the Program up to 2017.

19. Given the contents of reports for 2016 QQ 1-4 and reports for 2017 QQ 1-4, actions listed in Program Action Plan Section 11 on creating the real estate property register and developing models for its leasing on attractive terms have almost remained unfulfilled.

20. The Ministry of Regional Development did not assign the State Budget funds for keeping the real estate property register, drafting projects for local community development, building the housing facilities for the displaced people, creating a social housing stock in the cities and towns (hostels) to lease to displaced people on attractive terms, too.

21. Registers of unfinished construction, left residence buildings, newly built module buildings as temporary housing have been kept only locally.

22. There are not outcomes of developing the models for leasing these real estate facilities on attractive terms at all since leasing the real estate dwelling spaces included in the register of such facilities, to the internally displaced people on attractive terms is not enshrined in law.

23. The reply of Kyiv Regional Administration of September 5th 2017 does not give any information on implementing the abovementioned actions and actual outcomes, i.e. providing this category of citizens with

⁴ The Ministry of Finance of Ukraine' reply # 09020-15/28-498/513 of July 6th 2017 <http://crimeahrg.org/wp-content/uploads/2018/08/0023-Ministerstvo-finansiv-Ukrayini-26.06.2017-Otvvet.pdf>

⁵ The Ministry of Regional Development, Construction and Housing of Ukraine' reply # 8122-36-17 of July 5th 2017 <http://crimeahrg.org/wp-content/uploads/2018/08/0021-Ministerstvo-regionalnogo-rozvitku-26.06.2017-Otvvet.pdf>

⁶ The Ministry of Social Policy of Ukraine' reply # 98/0/108-17/221 of 6 July 2017 <http://crimeahrg.org/wp-content/uploads/2018/08/0022-Ministerstvo-sotsialnoyi-politiki-Ukrayini-26.06.2017-Otvvet.pdf>

⁷ [E-resource] – Access mode: <http://www.msp.gov.ua/timeline/?t=152&from=&till=&m=19#tagpanel>

⁸ The Ministry of Finance of Ukraine' reply # 09020-15/28-498/513 of July 6th 2017 <http://crimeahrg.org/wp-content/uploads/2018/08/0023-Ministerstvo-finansiv-Ukrayini-26.06.2017-Otvvet.pdf>

shelter. Replies received from regional administrations on the CHRГ requests regarding implementing Action Plan Section 11 – assuring the rights of IDP to shelter – demonstrate that the Integrated Program in terms of this issue is not mainly implemented.

24. Only some regional administrations reported providing the IDP with shelter to a minor extent. In most cases these are rooms in hostels and social establishments with appropriate living conditions, i.e. shared kitchens and bathrooms.

25. There are cases when the administrations have created obstacles for non-governmental organizations to accommodate the IDP in the premises leased by such organizations, through terminating tenancy contracts.

26. For instance, since 2014 SOTY Kyiv Disabled People Organization, a NGO, has been many times applying to Pechersk District State Administration (city of Kyiv) to make a tenancy agreement for non-residential premises at an address: 12 Predslavins'ka Street, Kyiv, and 10 Patrysa Lumumby Street, Kyiv that were terminated by judicial process though over 70 IDP with disabilities and ATO participants have been accommodated in these premises since 2014. Electric power and water supply is regularly disconnected in these premises to make the people leave. In addition, they are suffering from abuse of non-identified persons that threaten them with physical violence, set fire to the premises, and terrify the people in other ways to make them move from there. This is verified with numerous applications of citizens and organization heads to legal enforcement bodies and prosecutor's office of the Autonomous Republic of Crimea.

27. When monitoring the practice of respecting the right of IDP to a safe access to the shelter acceptable for temporary or permanent living, by the Ukrainian governmental bodies, collecting and evaluating the information obtained, the violation of rights of Mr. L., a citizen of Ukraine, registered as internally displaced person from the temporarily occupied territory of the Autonomous Republic of Crimea at the Department of Labour and Social Secure of People, Holosiyevy District State Administration (city of Kyiv) has been recorded, that is verified by note # 0000297337 of August 14, 2017.

28. When Mr. L. was forbidden to enter Crimea by the RF authorities, his relations with the family were interrupted, while he has no relatives on the non-occupied part of Ukraine.

29. In August 2017 he addressed the Kyiv City Employment Center to be granted a status of unemployed and be employed later. However, the status of unemployed was granted to him only in October 2017. An unemployed aid to an amount of UAH500 was received by him only in November 2017. He does not receive any IDP payment though IDP status was granted in August 2017.

30. In **October** 2017 Mr. L. addressed Pechersk and Holosiyevy District State Administrations (city of Kyiv) for providing with any premise as a temporarily shelter or information on volunteer or charity organizations that might support him in resolving the issue.

31. The Pechersk District State Administration informed in October 18, 2017 that as no temporary housing stock had been established in the city of Kyiv, there was no possibility to provide him with shelter. The Holosiyevy District State Administration did not react at all.

32. To defend Mr. L's interests as well as other IDP as represented by him, the CHRГ filed a lawsuit in the Area Administrative Court of Kyiv City, demanding to acknowledge the Cabinet of Ministers of Ukraine inaction to assure the IDP right to shelter and to oblige to take actions on assuring the rights of internally displaced people to shelter. Case # 826/4736/18 was opened on the suit (Judge Viekua N.G.) The court session is scheduled on the 5th September 2018.

33. Considering the contents of mentioned Ukrainian laws and international law standards in the area of human right to shelter and adequate housing, the Cabinet of Ministers of Ukraine inaction to enforce Section 11 of the Integrated State Program has resulted into violating the rights of Mr. L. and thousands of other IDP to base shelter and housing adequate for living, and challenged the living conditions of IDP to a great extent. Mr. L., in fact, has become a homeless person who has to stay in the premise non fitted for living, and collect funds to survive by placing requests in the social networks.

Conclusions

34. Article 11.1 of the International Covenant on Economic, Social and Cultural Rights enforces the following provision: '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.'

35. Inaction of the Cabinet of Ministers of Ukraine on enforcing section 11 of Integrated State Program Action Plan, contradicts Article 25.1 of the 1948 Universal Declaration on Human Rights, Article 11.1 of the 1966 International Covenant on Economic, Social and Cultural Rights, Principle 18 of Guiding Principles on internal displacement inside the country, Articles 47 and 48 of Constitution of Ukraine, Article 2 of Law of Ukraine 'On social purpose housing stock' of January 12th 2006, Articles 2 and 9 of Law of Ukraine 'On securing rights and freedoms of internally displaced persons' of October 20th 2014.

36. The Inaction of the Cabinet of Ministers of Ukraine has resulted into a mass violation of IDP rights to safe access to the shelter adequate for temporary or permanent housing.

Recommendations

- To recognize and enshrine a right of IDP to shelter acceptable for living and adequate housing in the national laws of Ukraine
- To identify via a regulation a specific state body of Ukraine to be responsible for resolving the housing issue for IDP
- To extend the validity of the Integrated State Program for supporting, adapting socially and reintegrating citizens of Ukraine who have moved from the temporarily occupied territory of Ukraine and the anti-terrorist operation areas to other regions of Ukraine up to 2020
- To create an all-national state Register of real estate facilities that might accumulate the information on housing stock inventory and its use for creating a temporary shelter for the IDP
- To improve the Unified Data Base on the internally displaced people, considering their housing needs and intentions
- To re-focus current state programs on dwelling construction development in Ukraine on resolving the IDP housing issues
- To amend Law of Ukraine 'On State Budget of Ukraine for 2018' and Law of Ukraine 'On State Budget of Ukraine for 2019' to assign budget funds on state housing programs for accommodating the internally displaced persons

Part 2. Situation with providing Ukrainian citizens, residents of occupied territories who can't return to Crimea to the residence place due to the lack of necessary documents, with housing, meals and clothes

37. After the occupation of Crimea by Russian Federation Crimean residents are deprived from the opportunity to receive Ukrainian documents (birth certificate, death certificate, marriage certificate, Ukrainian citizen passport, etc.) on the occupied territory.

38. To receive the Ukrainian documents the Crimean residents leave for the Ukraine controlled territory. Administrative Service Centers (ASC) closest to Crimea are on a distance of several dozens of kilometers from the administrative border with Crimea.

39. The Procedure for entering the temporarily occupied territory of Ukraine and departing from it was approved by Resolution of Cabinet of Ministers of Ukraine # 367 of June 4, 2015⁹. Pursuant to Section 3.2 the temporary occupied territory of Ukraine shall be entered and left though check points subject to presentation of a Ukrainian citizen passport.

⁹ <http://zakon.rada.gov.ua/laws/show/367-2015-n>

40. Pursuant to Section 3.3 of the Procedure, Ukrainian citizens under age of 16 shall enter the temporarily occupied territory of Ukraine through the check points subject to presentation of a Ukrainian citizen passport or an international Ukrainian citizen passport or a child travel document, with observing the requirements for such persons established by section 3-6 of Rules of crossing the state border by Ukrainian citizens approved by resolution of Cabinet of Ministers of Ukraine # 57 of January 27, 1995.

41. Pursuant to Section 4 of the Rules of crossing the state border by Ukrainian citizens¹⁰, Ukrainian citizens under age of 16, when departing from Ukraine, accompanied by one of the parents or other persons authorized by one of the parents, shall have a notarized consent certificate of the other parent, that indicates a destination state and a relevant time period of staying in that state, if the other parent is absent at the check point.

42. To receive a Ukrainian passport the Crimean residents when aged 16 shall come to the Ukraine controlled territory. With all necessary documents submitted, the passport receiving procedure takes 7 days at least. If the parents can't leave Crimea, a person identification procedure through court should be passed. In this case, the court proceedings may last for several months.

43. During the court hearing, before receiving the Ukrainian passport, **Crimean residents can't go home** because to cross a Ukrainian border check point Ukrainian citizens over 16 shall present a passport or an ID. So by the time of Ukrainian document identifying the person has been issued, such Crimean residents have to seek by themselves for housing, meals and clothes on the Ukraine controlled territory.

44. The same **problems are faced by the parents of the children born in Crimea after the peninsula occupation**. To receive a birth certificate for their children, the parents have to come to the governmentally controlled Ukrainian territory and apply to the court for verifying the fact of Ukrainian citizen birth.

45. Moreover, since the time of adopting the Procedure for entering the temporarily occupied territory of Ukraine and departing from it, situations when a child accompanied by one of the parents may depart from Crimea on the Ukraine controlled territory but to return to Crimea one of the parent shall present a notarized consent certificate of the other parent, have become typical. However, it is impossible to present such 'non-objection' issued in Crimea since pursuant to Article 9 of Law of Ukraine 'On assuring rights and freedoms of people and a legal regime on the temporarily occupied territory of Ukraine', any documents issued by the unlawfully established bodies in the peninsula territory annexed by the RF are not recognized by Ukraine.

46. When one of the parents can't leave Crimea, the other parent with a child can't go home. And it is necessary to apply to the court to be allowed to leave with the child for the temporarily occupied territory without a consent certificate from the other parent. The hearing at the court may take months.

47. For instance, in November 2016 Ms K. who resides permanently on the temporarily occupied territory of Crimea, addressed the CHRG, asking for assistance in returning to the residence place, when she had been informed that she would not be able to leave with a child only with the birth certificate, while her husband and the child's father could not leave the temporarily occupied territory due to the financial straits and because he took care of two more children that could not be taken care of by somebody else.

48. Ms K. had to depart from the temporarily occupied territory to apply to the court for establishing the child birth fact. On November 23rd 2016 she was issued a Ukrainian birth certificate for her son. On December 7th 2016 she was informed by the Border Guard Service of Ukraine that she would not be able to leave for the temporarily occupied territory, i.e. to return home, without the documents specified by the Procedure for entering the temporarily occupied territory of Ukraine and departing from it (Resolution of Cabinet of Ministers of Ukraine # 367 of June 4, 2015), and advised to apply to the court.

¹⁰ <http://zakon2.rada.gov.ua/laws/show/57-95-%D0%BF>

49. On December 20th 2016, Ms K., supported by the CHRG, filed a claim to the court on issuing a permit for a minor on the multi entry to the temporarily occupied territory of AR of Crimea without the father's non-objection and escort.

50. She received the judgment of Desniansky District Court of Kyiv City, case # 826/873/17, on issuing the permission only on May 10th 2017, i.e. **5 months after the claim submission**. Waiting for the court permission to return home, Ms K., a Ukrainian citizen, was seeking by herself for housing and subsistence for her and her baby.

51. In fact, the place where Crimean citizens may stay, waiting for the documents permitting to return home, are zones close to the checkpoints at the administrative border with Crimea.

52. The CHRG has been monitored many times, since 2015, the situation at the checkpoints at the Crimean administrative border. These monitoring missions have showed that there are no minimal conditions necessary for long-time staying at all three checkpoints. Only CHONGAR checkpoint of all three has a roofed temporary shelter with seats. There is no access to free of charge water at all checkpoints. WCs located next to the checkpoints do not meet minimal hygiene standards, with a fee charged. Only CHONGAR checkpoints has a medical station though no medical staff has been ever seen during any monitoring mission.

Conclusions

53. Acting like this, Ukraine violates Article 11 of the International Covenant on Economic, Social and Cultural Rights, namely, deprives Ukrainian citizens from an opportunity to return home within the borders of Ukraine, without providing them at the same time with adequate food, clothing and housing.

54. Lack of free water, WCs and medical stations at the checkpoints violates Article 12 of the International Covenant on Economic, Social and Cultural Rights, namely, a commitment to improve all aspects of environmental and industrial hygiene and to create conditions which would assure to all medical service and medical attention in the event of sickness.

Recommendations

- To develop a legal and regulative framework for obtaining a temporary documents allowing Crimean residents to return home prior receiving permanent Ukrainian documents. Such temporary document may be issued by Border Guard Service of Ukraine staff when Crimean residents leave the occupied territory, if declared departure purpose is to obtain official Ukrainian documents.
- To provide Crimean residents waiting for issuing the Ukrainian documents who can't return home, with food, clothing and housing until receiving the documents permitting to return home.
- To allow children whose parents live on the temporarily occupied territory to cross an administrative border with Crimea only with one parent, without a notarized POA of the other one or to develop a special procedure that would take new occupation conditions into account.
- To create conditions for speeding up as much as possible the process of issuing a Ukrainian citizen passport for Crimean residents
- To place Administrative Service Centers in the closest vicinity of the checkpoints to speed up the process of obtaining the documents
- To create proper conditions at the checkpoints so that Crimean residents may stay them till obtaining the documents permitting to return home, namely, to ensure an unobstructed and free access to water, WCs, to build roofed premises at all checkpoints, to provide baby care rooms and operating medical stations.