

LEGAL ASSISTANCE NEEDS ASSESSMENT

People living along the line of contact
Donetsk Oblast GCA, Ukraine



2017

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1. EXECUTIVE SUMMARY

People living along the line of contact in the GCA are beset with a host of legal issues affecting their enjoyment of basic human rights and fundamental freedoms. The legal assistance needs assessment survey elaborated in this document found that one in every three households along the line of contact has at least one major legal issue in addition to a host of other protection concerns. One in every ten households is implicated by multiple major legal issues. Rights and freedoms compromised due to the existence of these legal issues include right to freedom of movement, right to social benefit, services and pension, right to healthcare services, right to property, right to identity and civil documentation, right to life, physical integrity and dignity, and right to access to justice.

Missing civil documentation remains one of the issues to be immediately addressed. Current perception of lower civil documentation needs is based, among others, on earlier survey findings that only 2% of the IDP/conflict affected have missing passport. That finding did not take into account 5% of those whose passport are legally invalid due to outdated photos, and 4% of those who do not have birth certificate. It also does not include 2% of the people not having a registered place of residence, and a whopping 24% of the population who have not updated their new place of residence. All the above have legal implications for access to justice, enjoyment of freedom of movement, right to social benefit and services, and pension.

The legal right of the civilian victims of the war has remained as one of the most underemphasized area of legal assistance work. While one in every five households along the line of contact has a member who was injured in the war, 98% of them have received no state aid or assistance with regard to the injury.

Another underemphasized area of legal work is legal assistance to the unrelated minors hosted by the inhabitants. The absence of formal guardianship poses serious questions in the ways education, freedom of movement, and personal security of the unattended minors are maintained.

The need for legal and advocacy works surrounding freedom of movement and access to healthcare is further validated by the needs assessment survey. As anticipated, deprivation of social benefit and pension constitute a major load of legal assistance needs to be addressed. In line with the general understanding, the legal complexity surrounding right to property and the right to restitution and compensation is further exposed. The need for a coherent legal assistance approach in resolving property documentation and inheritance issues is widely validated by the assessment. Discrepancies in the figures of damaged and destroyed houses, and the number of damage certificates issued, as well as the unclarity surrounding legal mechanism for restitution and compensation point towards the need for a comprehensive institutional solution to the HLP restitution and compensation claims of the people.

2. BACKGROUND OF THE ASSESSMENT

As a result of the ongoing armed conflict and continued instability in Donbas for the last two years, more than 1.5 million people have been displaced. The war has affected 4.4 million people, including IDPs, people living across the contact line from both sides and population remaining in non-government controlled areas (NGCA). The most vulnerable population in need can be estimated at 3.1 million, composed of the population living in the NGCA and the areas along both sides of the contact line. An estimated 200,000 people live in the government controlled area (GCA) of the line of contact. The survey pertains to the legal assistance needs of the 200,000 people living in the GCA side of the line of contact.

DRC has been running a free legal aid program for the IDPs and other conflict affected people of Ukraine since July 2015. To date, DRC's legal aid program has assisted 70,174 conflict affected individuals through legal counseling and documentation, administrative and in-court assistance in 20 oblasts across Ukraine. Recently, DRC has increased its legal assistance coverage for the people living along the line of contact of the GCA as the population represents the most vulnerable group in need for protection of rights and freedoms.

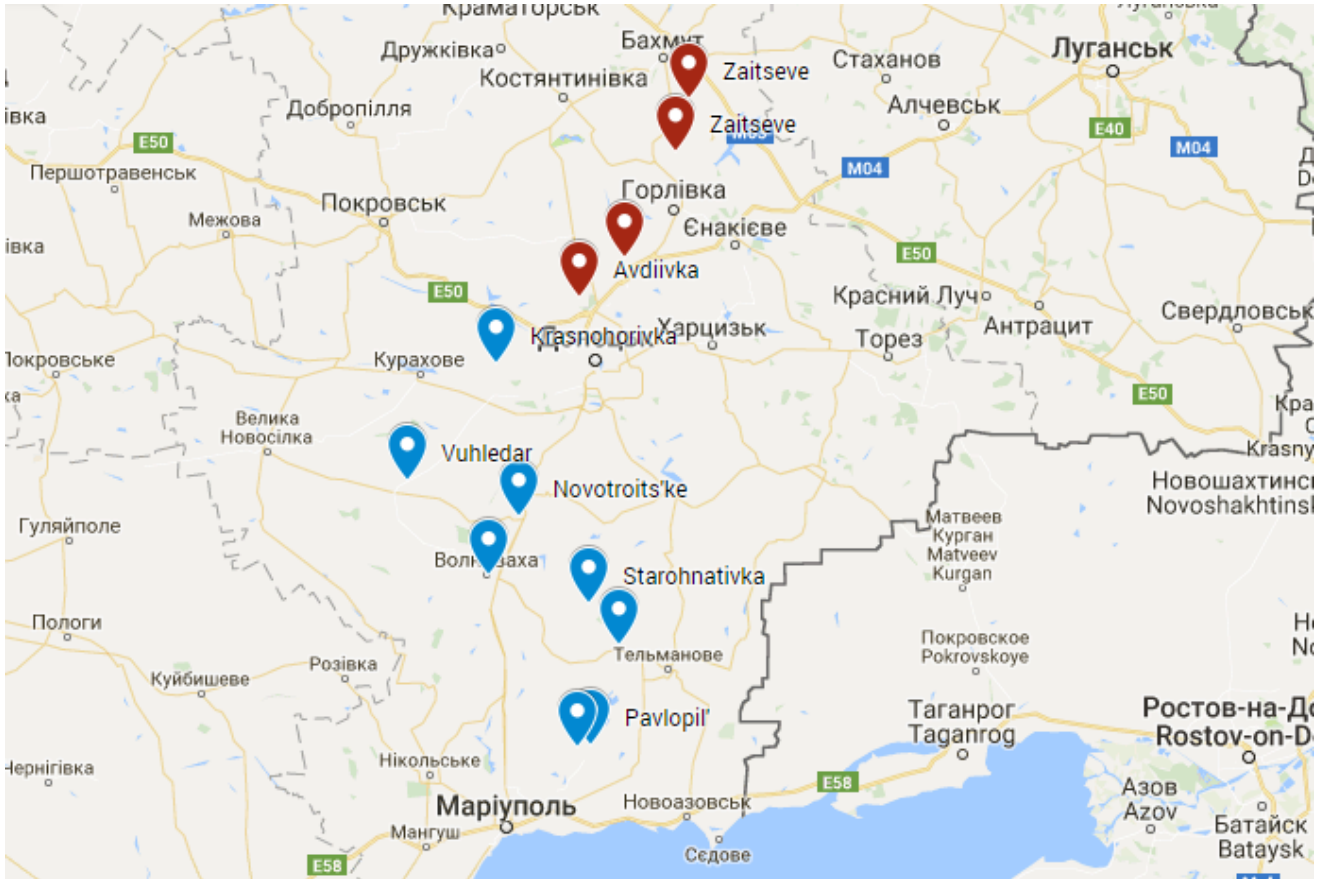
From 12 to 18 January 2017, DRC legal assistance team has interviewed 199 beneficiaries residing in 12 villages along the line of contact of the Donetsk oblast GCA. The primary purpose of the assessment was to inform DRC's program design with regard to its legal assistance services for the people living along the line of contact in the GCA. Assessment team comprised of 13 staff members including 11 lawyers from DRC Mariupol, Slovyansk and Kyiv offices.

3. METHODOLOGY

Assessment questionnaire: Assessment questionnaire contained 28 complex yes/no and multiple choice questions drawn from DRC lawyers' reports during May-October 2016 in 15 regions of Ukraine. As the target population of legal assistance program during 2016 was primarily internally displaced persons, it was decided to make a separate survey which would specifically target conflict affected population in the buffer zone so as to spear-head the response in that area in 2017. Draft questionnaire was vetted by DRC Program Quality and Compliance Manager and Legal Program Manager. See Appendix for a sample questionnaire.

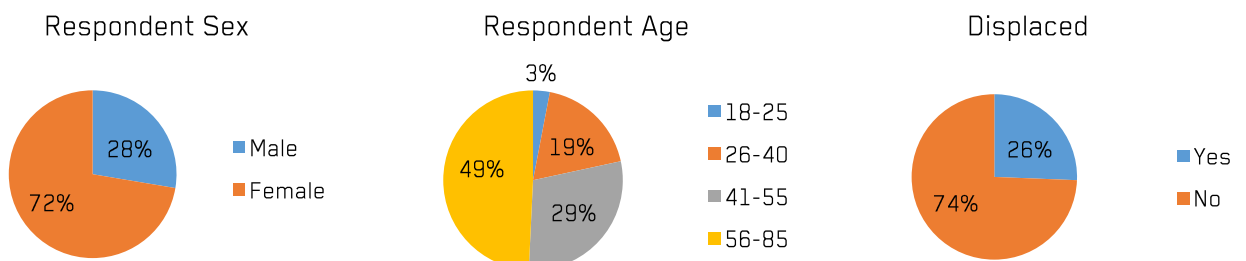
Locations: The assessment targeted the villages along the line of contact in government-controlled areas of both Northern and Southern Donetsk regions. The assessment excluded Luhansk GCA as DRC legal assistance program does not operate in the oblast. The table below shows list of villages where the assessment took place.

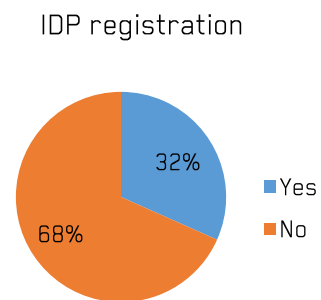
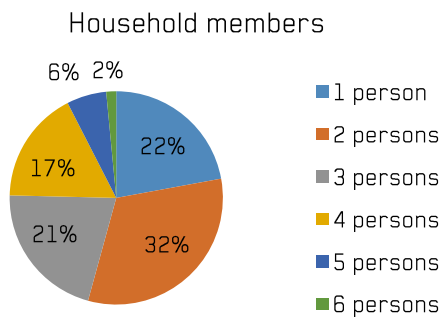
Raion	Mayorsk	Volnovaskyi	Marinskyi	Bahmutka	Iasynuvata
Village	Zaytsevo	Starohnativka Hranitne Volnovakha Novotroits'ke Pavlopil' Orlovs'ke	Krasnohorivka Vuhledar	Zaytsevo	Avdiivka Verkhnyotorets'ke



Sample: Sample size for the assessment was 199. Respondents were selected randomly. 56% of the survey participants were selected through door to door visits, while 44% were met at public places including schools, cultural centers, employment centers, local councils, shops, civil and military administration office, as well as during the distribution of humanitarian aid by local NGOs.

Among the survey participants 72% were female and 28% male; 74% host community members and 26% IDPs. Survey participants answered questions pertaining to all members of the household including unrelated minors and other persons hosted by the household. The average size of household was 2.59 persons. Assuming a population of 200,000 (77,220 households) in the buffer zone, the survey sample (199) represents 95% confidence level and 7% margin of error. However, given that 199 respondents represented their household (2.59 person on average), the extended sample size is 515. Under that calculation, the sample represents 95% confidence level and 4.31% margin of error.





4. FINDINGS

(A) CIVIL DOCUMENTATION, INCLUDING IDP REGISTRATION

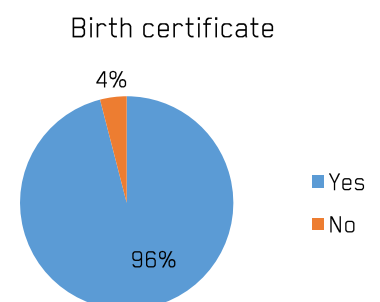
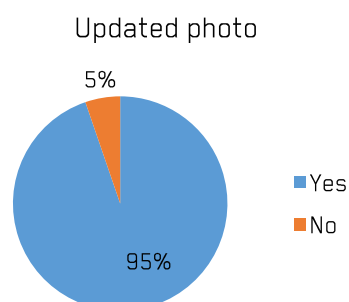
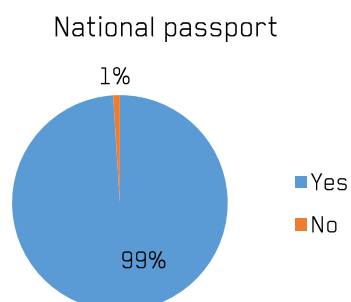
DRC survey has found missing civil documentation as one of the most underestimated factors. The IAVA assessment found that only 2% of the IDPs have missing national passport. The DRC survey found that statistics to be 1% for the people along the contact line. However, the major legal issues arise from expired photo in national passport, lack of birth certificates and outdated registration of the place of residence.

5% of the respondents reported that their photo in national passport has expired. According to Ukrainian law, photos in national passport are to be updated once the holder reaches 25 and 45 years old. An expired photo makes the passport invalid according to the law.

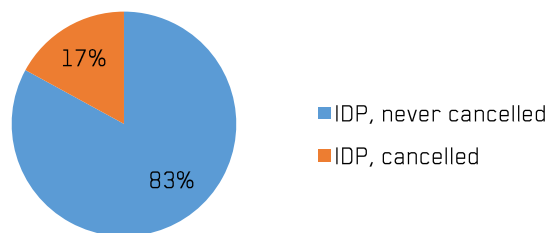
4% of the respondents reported not to have a birth certificate. Lack of birth certificate limits their legal rights on a number of issues, including establishing inheritance rights and family ties in an inheritance/guardianship matters, registering in the unified demographic registry, etc.

98% of respondents claimed to have a registered place of residence, however only 76% have indicated that they live in the registered place of residence. This arises two legal issues. Firstly, 2% of the population will have to register their place of residence. Secondly, 24% of the respondents have to update their registration. Registered place of residence has significant legal bearing on access to certain rights, including the right to free medical care.

26% of the respondents were IDPs, whereas 32% claimed to have IDP registration. This indicates a slightly inflated number in the government records. However, among those who claimed themselves to be IDPs, 17% mentioned that their IDP registration was cancelled at least once in the past, which triggered suspensions in pensions and social payments, as well as going through a lengthy and cumbersome procedure of being registered as an IDP once again.



IDP registration cancelled at least once



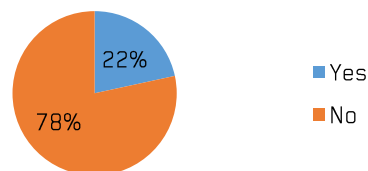
Since 2015, DRC legal program has assisted total 7,550 conflict affected persons in obtaining civil documentation through legal counseling (6,724), administrative assistance (752) and in-court representation (74).

(B) CIVILIAN VICTIMS OF THE ARMED CONFLICT

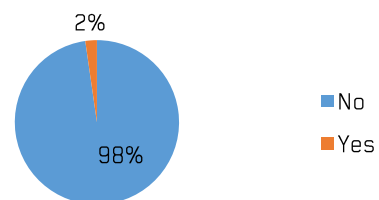
In total, from mid-April 2014 to 15 November 2016, OHCHR recorded 32,453 casualties, among Ukrainian armed forces, civilians and members of the armed groups. This includes 9,733 people killed and 22,720 injured. However, while the legislation provides special dispensations for victims among the armed forces, the situation with the civilian victims of the armed conflict remains dire, as the regulation of these questions remains in a lacuna, effectively cutting off such people from social security payments and special pensions.

Among the respondents, 22% have replied that either they or a member of their household was injured during the conflict, however, only 1 person has received care and special social payments due to such injury. This means that 98% of the civilian victims of casualties have not received any aid from the State in connection with their injuries.

Injuries due to conflict



Received any State aid



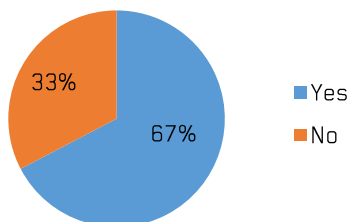
Legal aid actors working on the issue will have the following challenges in obtaining effective remedy for the victim:

- Registration of the incident/casualty
- Qualification of the incident as resulting from the armed conflict
- Application for State aid/pension

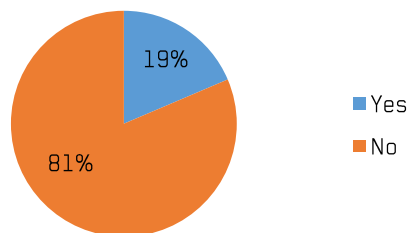
(C) ACCESS TO SOCIAL BENEFIT AND PENSION

67% of the respondents reported that they have someone in the household who used to receive either pension or at least one type of social benefit prior to the conflict. 19% of those who used to receive pension or social benefit have failed to restore their rights. Within the 19% group 41% have lost social benefits and 59% – pension. Reasons for the lost pension and/or social benefit include delays in the verification process, arbitrary suspension of payment for more than 4 months, and the relevant paper works for the benefit entitlements being located in the NGCA.

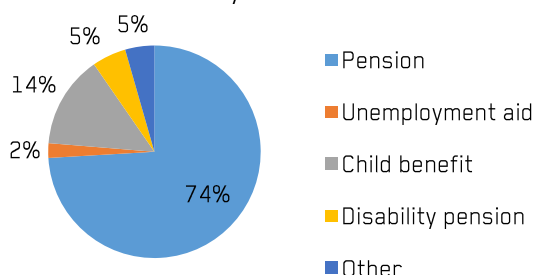
Received social payments/pensions before conflict



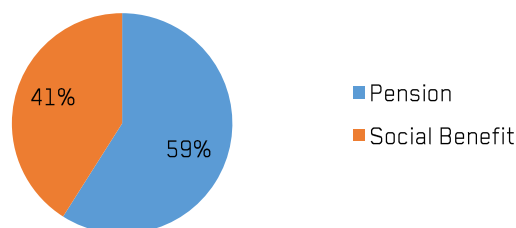
Cannot receive payments now



Payments



Category of Missing Payment



The statistics, when applied to the overall buffer zone population (Luhansk and Donetsk) indicate a potentially 9,830 residents who are deprived of their pre-existing social benefit or pension. Out of this 5,800 persons are being deprived of pension and 4,030 persons are being deprived of social benefit entitlements. The number is expected to grow over time as more people attain pension age.

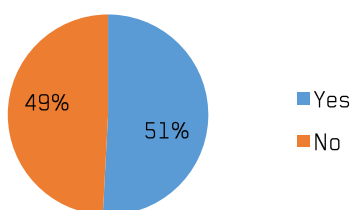
According to the most recent IAVA survey 38% of IDPs depend on social benefits and pensions for survival. A December 2016 European Commission's Association Implementation Report on Ukraine states that 175,000 to 325,000 IDPs are still have their social benefit and pension suspended. In the August-November 2016 Human Rights report, OHCHR stated that many IDPs, especially those who rely on the state financial support as their primary source of income had indicated that they would be forced to return to territories controlled by the armed groups due to suspension of benefits and increased utility prices in 2016. The impact of loss of social benefit and pension can also prove to be catastrophic for the non-IDP inhabitants of the buffer zone due to the loss of regular earnings, including income from farming lands.

In 2015-2016, DRC legal program has assisted a total of 23,084 conflict affected persons through legal counseling (21,725) and administrative assistance (1,359) with regard to access to social benefits and pension.

(D) ACCESS TO HEALTH CARE SERVICES

60% of the respondents have taken some kind of medical care after the conflict. Only one half of them got the services free of charge. Under law, health care services are to be provided free of charge. A 2015 Report of UNHCR on Participatory Assessment stated that all groups attending the assessment had complained that unofficial payments in hospitals had been and continued to be a regular norm.

Medical aid free of charge

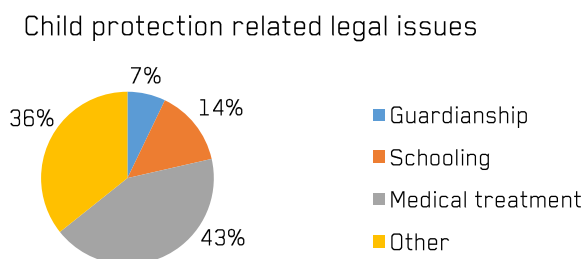


A number of reasons, other than the service provider's reluctance, can be responsible for the deprivation of the right. The IAVA report indicated that 25% of IDPs had difficulties in accessing health care services due to distance, discrimination, check post, security, lack of doctor, lack of referrals, and inaccessibility for the disabled. The fact that 24% of the inhabitants have an outdated registered place of residence may have contributed as well. Health care service providers often insist patients to visit the service providers at their registered place of residence.

In 2015-2016, DRC legal program has assisted 1,211 conflict affected persons through legal counseling (1,205) and administrative assistance (6) with regard to their right to access to medical assistance.

(E) CHILD PROTECTION – LEGAL ISSUES

The survey found that 10% of the households along the line of contact host an unrelated minor. Though the percentage is lower than the IAVA finding according to which 19% IDP families host an unrelated minor, the DRC survey findings still reflect the presence of a significant number of unrelated minors who are in need of legal protection. 43% of these children have legal issues with medical assistance, 14% with schooling, and 7% with legal guardianship. Lack of formal guardianship poses serious questions in the ways education, freedom of movement, and personal security of the unattended minors are maintained. The absence of a formal guardianship arrangement, and a legally binding obligation of the hosting family may further elevate risk of human trafficking. Some other legal concerns raised by the respondents include legal issues relating to alimony payments, and child disability related issues including the necessity to visit disability evaluation board.



Since 2015, DRC legal program has assisted a total of 4,592 conflict affected persons through legal counseling (4,496), administrative assistance (135) and in-court representation (21) on family related legal issues and children rights.

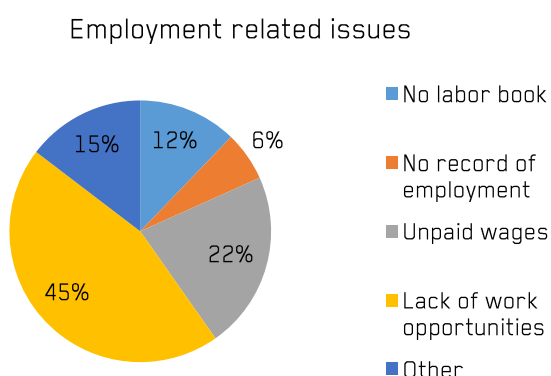
(F) FREEDOM OF MOVEMENT

48% of the respondents reported to have electronic pass for crossing the contact line. 27% of those who don't have the pass indicated that they would like to obtain one. 10% of the respondents reported that they faced obstacles in crossing contact line and/or carrying any belongings across the contact line. Some of the respondents living in the GCA grey zone are *not* entitled to a pass (as they do not live *de facto* in NGCA), but nonetheless have to cross the check points without the pass for a variety of reasons. This causes issues from time to time especially during military officers' rotation. Long lines, regular security checks, as well as missing registration of place of residence in IDP certificate are examples of the routine obstacles the inhabitants of the area have to face almost on a daily basis.

According to the Aug-Nov 2016 Human Rights Report of OHCHR on average 25,000 civilians crossed the contact line daily through five designated crossing points, including a wooden ramp for pedestrians connecting parts of a destroyed bridge. A survey conducted in November 2016 by NGO called Foundation 101 revealed that 55% of the people had subjective fear of shelling while crossing the contact line.

Since 2015, DRC legal program has assisted 4,092 conflict affected persons through legal counseling (4020), administrative assistance (54) and in-court representation (18) with regard to their right to freedom of movement.

(G) LIVELIHOOD & EMPLOYMENT RELATED LEGAL ISSUES



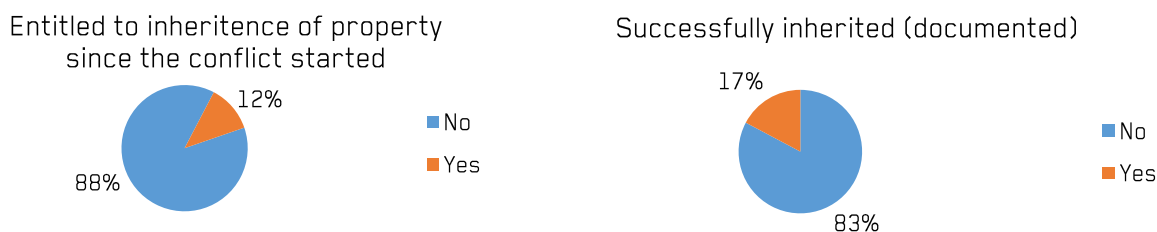
12% of the DRC respondents reported that they have not yet obtained their employment books. This issue will have impact on livelihood when the person pursues employment in the formal sectors. An unexpected 22% of the respondents mentioned issues relating to unpaid wages. This issue requires further study and advocacy/legal intervention for solution. 29% of the respondents stated that they used to receive rent from their farming land prior to the conflict. 61% of them have lost the rent since then.

In 2015-2016, DRC legal program has assisted 6,696 conflict affected persons through legal counseling (6,599), administrative assistance (48) and in-court representation (49) with regard to their right to employment, including entrepreneurship related issues.

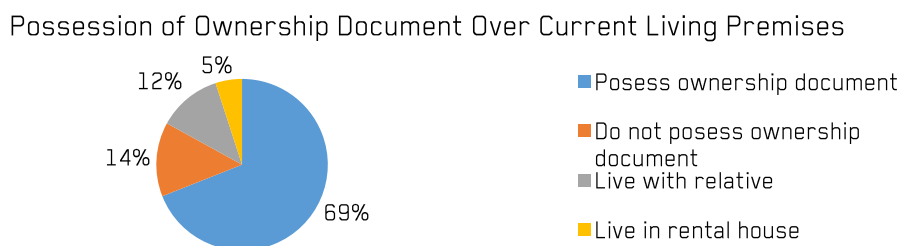
(H) HOUSING, LAND AND PROPERTY RIGHTS

HLP constitute the single biggest legal assistance category containing a wide range of sub-categories. HLP issues include legal claim due to damage, destruction and looting, inheritance, title documentation, privatization of land, claims relating to utility bills, and leasing of farm/arable land.

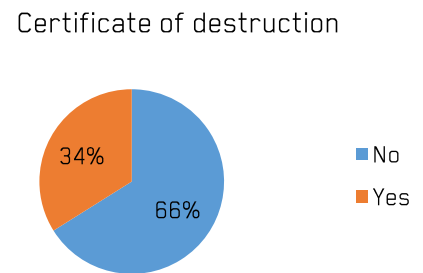
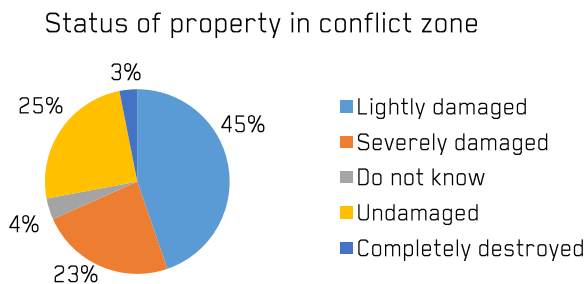
12% of the respondents claimed to have inherited real estate or bank deposits since the beginning of the conflict. 83% of them have *not* fulfilled the documentation works to legally possess the inherited estate and bank deposits yet. While real estate can be enjoyed with *de facto* possession, access to the deceased’s bank deposit will require legal and documentation works. Legal assistance on inheritance issue will potentially give access to bank deposits to a large number of people. It will also empower them to assert full legal claim on the inherited real estate. This will be particularly important if the person at some point asserts claim for compensation for damage, destruction or looting.



At least 14% of the people owning residential property do not have title document to prove ownership. Respondents were asked whether they had ownership document for the property where they are currently living. 69% said they did, 14% said they did not, 12% said they lived with relative, and 5% said they lived in rental property. There is likelihood that the percentage of people not having ownership document could be much higher than 14%. DRC’s integrated shelter-legal aid project funded by GIZ operating in and around the buffer zone showed that nearly 30% of the owners of single family houses in rural areas did not fulfill the legal requirement of privatization of the land despite holding document proving privatization of the housing structure. There was never a compelling reason for full documentation of privatization of land since privatization happened after the fall of Soviet Union. Such documentation will be required in case of passing the property to heirs, or making legal claim for compensation for damage or destruction.



Percentage of people claiming damage or destruction of property due to the war is much higher than the percentage found in the REACH Assessment (IAVA). DRC survey found 72% of respondents claiming light, heavy and full damage, versus 44% in the REACH Assessment for the three categories. The 72% of claims may have been inflated by subjective assessment of the respondents where some of the damages might be results of ordinary wear and tear. Against the questionable 72% claims of damage and destruction, 34% have received certificate of damage from their respective local councils.



The door to door survey method used in the DRC survey, and the security environment did not allow to collect information on property looted or currently under secondary occupation. OHCHR, however, reported observance of military use of and shrapnel damage to houses in Government-controlled areas of Avdiivka, Lopaskyne, Novozvanivka, Opytne and Tonenke. Other than damages to their properties and loss of use, the lawful owner of the residential premises are also incurring utility bills. In some cases in Avdiivka, cited in the OHCHR Report, the utility company had refused several of the requests to cut off the electricity supply to their houses and continues to bill them for electricity used by soldiers.

86% of the respondents pay for utilities without any subsidies from the State which together with reported above social welfare/pension and employment related restrictions significantly aggravates current vulnerability of the population

29% of the respondents replied that they have leased out their farming land and received revenue from it prior to the conflict. Out those who did 61% have lost that revenue and do not receive rent any more from that land.

In 2015-2016, DRC legal program has assisted 14,234 conflict affected persons through legal counseling (13,254), administrative assistance (859) and in-court representation (121) with regard to HLP rights.

5. SNAP SHOT: LEGAL ASSISTANCE NEEDS AND RESPONSES

Needs Identified	Legal Counseling	Doc. Assist.	Admin. Assist.	In-Court Assist.	Local Advocacy	National Advocacy
1% missing passport	✓	✓			✓	✓
5% having expired photo on passport	✓	✓				
4% not having birth certificate	✓	✓		✓		
24% to update registered place of residence	✓		✓			
98% of 22% civilian victim of war to get state victim assistance	✓		✓		✓	✓
Approx. 5,800 person deprived of pension	✓		✓	✓	✓	✓
Approx. 4,030 person deprived of social benefit	✓		✓	✓	✓	✓
50% of 60% people in need of healthcare not receiving it for free	✓				✓	✓
10% household hosting unrelated minor require assistance with guardianship, access to health service, schooling etc.	✓		✓	✓		
27% may apply for movement pass	✓		✓			

10% facing obstacle to crossing, 55% fearing shelling etc. while crossing						✓
12% requiring employment book	✓	✓		✓		
22% have claims for unpaid wage	✓			✓		
83% of 12% entitled to inheritance of real estate/bank deposit didn't complete the legal procedure and documentation	✓	✓	✓	✓		
14% not having title to their residential property	✓	✓	✓	✓		
Between 44% to 72% residents having HLP restitution and compensation claims	✓	✓	✓	✓	✓	✓

About DRC

DRC is an International non-governmental organization, which promotes and supports durable solutions to the problems faced by refugees and internally displaced people all over the world. DRC operated in Ukraine from 2007 until 2013 with European Commission funding, implementing a nationwide programme for protection of refugee children and capacity building of civil society and asylum authorities. In response to the current crisis, in 2014, DRC/DDG returned to the country and today operates in eastern Ukraine through a head office in Kyiv and field offices in Mariupol/Berdyansk, Dnipropetrovsk and Slovyansk/Severodonetsk with protection, legal assistance, shelter, livelihoods, mine action and emergency cash assistance programs.

This assessment is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of Danish Refugee Council and do not necessarily reflect the views of the USAID or the United States Government.

Annex 1: Questionnaire used

Questionnaire

Introduction: Hello, we are representatives of legal assistance unit within DRC, a humanitarian organization which provides free-of-charge legal assistance to the population of Ukraine who are affected by the current conflict.

Aim: We are conducting an anonymous survey which would help us better understand outstanding needs in legal assistance, so that plan of legal aid activities could be planned for year 2017.

Confidentiality and consent: We do not collect your personal data and will not ask to make any type of copies of the documents you will be willing to show us. By agreeing to answer our questions you give us your permission to use them exclusively for statistics purposes. In case you would like to be referred you can provide us with your personal data - Name, Surname, Date of Birth and address. The answers you provide will not be transferred or shared with anyone outside DRC, but please rest assured that that they all your help will be greatly appreciated.

1. Gender Male Female
 2. Age -----
 3. If displaced – where were you displaced from (oblast, city) -----
 4. Are you registered as an IDP Yes No
 5. Was your registration ever cancelled Yes No
 6. Current city/village and oblast -----
 7. Number of members in household (HH) -----
(including all people currently living together under the same roof)
 8. Do you (including the members of HH) have valid passport of the citizen of Ukraine? Yes No
 - i) If no – did you apply for a new passport? Yes No
 - ii) If yes – does the passport have an updated photo? Yes No
 9. Do all members of HH have a birth certificate? Yes No
 10. Do you (or any member of HH) have any problems with employment (labor book, etc.)? Yes No

If yes:

 - i) No labor book yes no
 - ii) No record of employment yes no
 - iii) Unpaid wages yes no
 - iv) Other -----
 11. Did you receive any social benefits prior to the conflict? Yes No
 12. *If yes:* What social benefits did you (or members of HH) receive before the conflict?
 - i) Pension
 - ii) Unemployment benefit
 - iii) Disability benefit
 - iv) Maternity allowance
 - v) Alimony
 - vi) Other (please specify) -----
 13. If you receive pension did you undergo through identification procedure in Oshchadbank? Yes No
 14. Are any benefits mentioned above unavailable for you at the moment? Which exactly and why?

 15. Do you have a registered place of residence? Yes No
 16. Are you living at the place of registration? Yes No
 17. Did you apply for medical aid? Yes No
 18. If yes, was such aid free of charge? Yes No
 19. Have you or any member of the HH been injured during the conflict? Yes No
- If yes:*
- Do you receive any related government aid/benefits, etc.? Yes No
20. Have you or any other member of HH received an inheritance in form of real estate/bank deposit since the outbreak of the conflict? Yes No

- If yes:* Have you documented everything, obtained the ownership title documents? Yes No
21. Do you have the electronic pass to cross the contact line Yes No Do not need
22. *If no:* Do you want to obtain such pass? Yes No
23. Have you had any problems crossing the contact line or carrying any belongings across the contact line? Yes No

If yes, please specify:

- i) Some of the personal belongings were not allowed Yes No
 Not allowed to cross due to problems with the electronic pass Yes No
 Other Yes No
24. Do you have the ownership title documents for the house/apartment you live in and land plot underneath? Yes No We live at rented premises We live at relatives/friends
25. Do you have the ownership title documents for the house/apartment and land plot you left behind? Yes No Not relevant (did not own property before displacement/was not displaced)
26. If you were leasing out the agricultural land before the conflict do you continue to do so now and receive lease payments? Yes No Not relevant (do not own agricultural land/did not lease it prior to conflict)
27. Did you own property before displacement, are you aware of the current status of your house or land plot, you were forced to flee from? Yes No Not relevant/not displaced
If yes: What is the current status of your property in the conflict zone?
 i) Not damaged
 ii) Light damages: there is act of destruction no act of destruction
 iii) Heavy damages: there is act of destruction no act of destruction
 iv) Completely destroyed: there is act of destruction no act of destruction
 v) Am not aware of
28. Do you (or any member of the HH) need assistance with obtaining for any of the below (tick one or more if relevant)?
- i) Birth Certificate or Birth Registration
 - ii) Marriage Certificate
 - iii) IDP Registration
 - iv) National Passport
 - v) Change of Residence
 - vi) Voters registration
 - vii) Death Certificate
 - viii) Driving license
 - ix) International Passport
 - x) Academic Certificate
 - xi) Medical Certificate
 - xii) Any other document, please, specify _____
 - xiii) I do not require legal assistance

29. You pay for utilities
- i) without subsidy;
 - ii) under reduced rates due to subsidy.
30. Do you host an unrelated minor child in your home? Yes No

If yes: Do you face any problems related to (tick all that apply)

- i) Guardianship Yes No
- ii) Schooling Yes No
- iii) Medical treatment Yes No
- iv) Other, please, specify _____
- v) I do not face any problems

Would you like your questions to be referred internally at DRC and externally to other agencies? Yes No

If yes: name, address _____