



September 2015

International Protection Considerations related to developments in Ukraine – Update III

Recent Developments in Ukraine

1. Since the last international protection considerations update on Ukraine was issued in January 2015,¹ the number of internally displaced persons (IDPs) registered by the government of Ukraine has more than doubled to over 1.46 million.² Despite a new ceasefire agreement reached in February 2015, surges in conflict continued to be reported along the line of contact and in Non-Government Controlled Areas (NGCAs),³ leading to insecurity for the civilian population and serious violations of international human rights.⁴ A further ceasefire agreement that went into effect on 1 September 2015 has resulted in a noticeable de-escalation in fighting although the security situation remains tense. The Ukrainian context is further marked by a weakening economy, with high inflation, a devaluing currency, and a troubled labour market. Gaps in the legal and regulatory framework relating to IDPs continue to have an adverse effect and create difficulties for IDPs in accessing state assistance, including basic services. Additional protection risks for those living in the NGCAs of Donetsk and Luhansk regions include security risks stemming from ongoing hostilities, restrictions on freedom of movement and assistance delivery, and restrictions on the movement of commercial goods, including food and medicine.⁵ Humanitarian needs are expected to rise further in the coming colder months and as the conflict continues.
2. A *Package of Measures for the Implementation of the Minsk Agreements*⁶ adopted on 12 February 2015 resulted in a notable decrease in the intensity and scope of hostilities in eastern Ukraine.⁷ However, the situation remains volatile.⁸ Between mid-April 2014 and mid-August 2015, at least 7,883 people (both military and civilians) were killed and at least 17,610 injured

¹ UNHCR, *International Protection Considerations Related to the Developments in Ukraine – Update II*, 15 January 2015, <http://www.refworld.org/docid/54c639474.html>.

² As of 7 September 2015, Ukraine's Ministry of Social Policy reports having a total record of 1,460,000 entries on registered IDPs in its unified database. Statistical update on registration is received by UNHCR on a regular basis.

³ Organization for Security and Co-operation in Europe (OSCE) Special Monitoring Mission to Ukraine, daily updates at <http://www.osce.org/ukraine-smm/daily-updates>.

⁴ Office of the High Commissioner for Human Rights (OHCHR), *Report on the Human Rights Situation in Ukraine: 16 February to 15 May 2015*, paras 6-8, 26, <http://www.refworld.org/docid/55cb487b4.html> (hereafter: OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015).

⁵ *Ibid*

⁶ OSCE, *Package of Measures for the Implementation of the Minsk Agreements*, 12 February 2015, <http://www.osce.org/cio/140156>.

⁷ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015, par. 7, 20-21. Fighting in eastern Ukraine has noticeably also de-escalated following an agreement brokered during talks of the Trilateral Contact Group's working group on security on 26 August 2015, where it was agreed to implement a new ceasefire as of 1 September 2015.

⁸ *Ibid*, paras 20-24; see also OSCE Special Monitoring Mission to Ukraine, daily updates at <http://www.osce.org/ukraine-smm/daily-updates>.

in Eastern Ukraine.⁹ People were reportedly killed or injured by landmines and unexploded ordnance in the conflict-affected areas in both government-controlled areas (GCAs) and NGCAs.¹⁰ Human rights monitors near the line of contact in both GCAs and NGCAs have recorded new allegations of killings and torture, as well as cases of illegal deprivation of liberty, abductions, forced labour, looting, ransom demands and extortion committed by all parties to the conflict.¹¹ In the NGCAs, the exercise of freedom of expression, assembly and religion has reportedly been curtailed,¹² with reports of acts of persecution against members of certain religious groups in particular.¹³ Concerns were also expressed about human rights violations in the GCAs against persons suspected of separatism or terrorism.¹⁴

3. Some areas close to the line of contact reportedly continue to experience problems with access to basic services, including electricity, gas and water utilities.¹⁵ In particular, more than 470,000 people including 118,000 children are reported to have difficulties in getting safe drinking water in the NGCA of Luhansk region.¹⁶ Nearly 30 per cent of the conflict-affected population in the NGCAs are reported to be suffering from an inadequate diet, with the price of many standard food items in the NGCAs reportedly almost twice as high as in the GCAs.¹⁷ As of June 2015, 52 per cent of residents in NGCAs reported a shortage of medicines,¹⁸ while those medicines that are available are largely unaffordable.¹⁹ The situation is reported to be particularly acute for persons suffering from chronic diseases, including for the 8,000 HIV-positive patients who face a critical shortage of antiretroviral treatments and opioids.²⁰ There has also been severe damage to property and increased difficulties in accessing employment.²¹

⁹ OHCHR, *Report on the Human Rights Situation in Ukraine: 16 May to 15 August 2015*, paras 24-27, <http://www.refworld.org/docid/55efe41f4.html> (hereafter: OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015). This is a conservative estimate of the UN Human Rights Monitoring Mission in Ukraine (HRMMU) based on available data. These totals include: casualties of the Ukrainian forces as reported by the Ukrainian authorities; 298 people from flight MH-17; civilian casualties on the territories controlled by the Government of Ukraine as reported by regional authorities of Donetsk and Luhansk regions; and casualties among civilians and members of the armed groups on the territories controlled by the self-proclaimed 'Donetsk People's Republic' and the self-proclaimed 'Luhansk People's Republic' as reported by local medical establishments. This data is incomplete because of lacunas in coverage of certain geographic areas and time periods and because of overall under-reporting. The HRMMU believe that the actual numbers of fatalities are higher. The increases in the numbers of casualties between the different reporting dates do not necessarily mean that these casualties happened between these dates: they could have happened earlier, but were recorded by a certain reporting date.

¹⁰ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015, par. 22; see also: AFP, *Lurking Landmines Threaten Lives, Livelihoods in Ukraine*, 8 April 2015, <http://news.yahoo.com/lurking-landmines-threaten-lives-livelihoods-ukraine-154746480.html>; and UNICEF, *Children Killed and Injured by Landmines and Unexploded Ordnance in Eastern Ukraine – UNICEF*, 31 March 2015, http://www.unicef.org/media/media_81398.html.

¹¹ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015.

¹² *Ibid.*, paras 65-73, 76-80.

¹³ Center for Civil Liberties and International Partnership for Human Rights in the framework of the Civic Solidarity Platform, *When God Becomes the Weapon, Persecution Based on Religious Beliefs in the Armed Conflict in Eastern Ukraine*, April 2015, http://ccl.org.ua/wp-content/uploads/2013/07/When-God-Becomes-The-Weapon_6May2015_closed-for-editing.pdf.

¹⁴ In May 2015, human rights monitoring reports expressed concern about persistent allegations of arbitrary and secret detentions and enforced disappearances of people suspected of separatism or terrorism, as well as allegations of ill-treatment and torture of people detained by the Ukrainian armed forces and law enforcement agencies. Further concerns were expressed about the fact that illegal activities of 'pro-unity' activists were reportedly tolerated by Ukrainian law enforcement agencies. Finally, concerns were also expressed that investigations into allegations of human rights violations by the Ukrainian military and law enforcement personnel had yet to be carried out. OHCHR, *Report of the Human Rights Situation in Ukraine*, 15 May 2015, paras 13 and 133; see also Amnesty International, *Ukraine: Overwhelming New Evidence of Prisoners Being Tortured and Killed amid Conflict*, 22 May 2015, <https://www.amnesty.org/en/latest/news/2015/05/ukraine-new-evidence-prisoners-tortured-and-killed-amid-conflict/>. The murder of a pro-Russian journalist and a prominent opposition politician in April 2015 also raised concerns; see The Guardian, *Pro-Russia Journalist Shot Dead in Kiev*, 16 April 2015, <http://www.theguardian.com/world/2015/apr/16/pro-russia-journalist-shot-killed-ukraine-kirov-oles-buzyna>.

¹⁵ UNHCR, *Participatory Assessment Conducted by UNHCR and Partners in Donetsk Region, Ukraine*, May 2015, http://unhcr.org/ua/en/?option=com_content&view=article&layout=edit&id=1526.

¹⁶ UN News Centre, *Ukraine: UNICEF Appeals for Help to Restore Damaged Water Facilities for 1.3 Million People*, 14 July 2015, <http://www.un.org/apps/news/story.asp?NewsID=51418>.

¹⁷ World Food Programme (WFP), *Ukraine Food Market Update - 3*, April - May 2015, <http://reliefweb.int/sites/reliefweb.int/files/resources/wfp276287.pdf>; see also: WFP, *Global Food Security Update: Tracking Food Security Trends in Vulnerable Countries*, April-June 2015, <http://reliefweb.int/sites/reliefweb.int/files/resources/wfp275824.pdf>; see also OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

¹⁸ Kyiv International Institute of Sociology and Aid Help Humanitarian Center, *Analysis of Humanitarian Needs in Donetsk and Luhansk Regions*, June 2015, electronic materials on file with UNHCR.

¹⁹ *Ibid.*

²⁰ AFP, *8,000 HIV Patients at Risk in Eastern Ukraine: UN Envoy*, 20 July 2015, <https://uk.news.yahoo.com/8-000-hiv-patients-risk-eastern-ukraine-un-025333407.html>; see also OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

²¹ Information available to UNHCR through participatory assessments.

The critical need for adequate housing as well as additional assistance to cover heating costs and basic needs will be particularly acute in the upcoming winter season, especially in the absence of available employment and livelihoods opportunities.

4. In March 2015, the Ukrainian Parliament adopted Resolution No. 254-VIII on the recognition of some districts and settlements of Donetsk and Luhansk regions as “temporary occupied territories”.²² *De facto* authorities in Donetsk and Luhansk regions are reported to have taken steps to establish parallel legislative frameworks and parallel systems for the administration of justice (with “police”, “prosecutors”, “courts”, as well as an “ombudsman’s office”). “Laws” and “by-laws” have been adopted to create an institutional framework for “Ministries” and to regulate governance in areas such as security, external relations, internal affairs, civil protection, labour, healthcare, education, social protection and the environment.²³ Some of these raise significant protection concerns.²⁴
5. Following a referendum, which was not authorized by Ukraine, in the Autonomous Republic of Crimea in 2014,²⁵ the legislative framework of the Russian Federation has been applied across the territory of Crimea as of 1 January 2015.²⁶ Human rights observers report concerns about restrictions on human rights, including freedom of expression and the right to peaceful assembly, as well as intimidation and harassment of those opposing the Russian *de facto* authorities in Crimea.²⁷
6. According to the Federal Constitutional Law of the Russian Federation of 21 March 2014, Ukrainian citizens and stateless persons permanently residing in the Autonomous Republic of Crimea and the city of Sevastopol automatically acquired citizenship of the Russian Federation, although there was a possibility to opt out.²⁸ It is therefore believed that the vast majority of residents of Crimea acquired Russian citizenship. Those who did not are considered foreigners and reportedly face challenges in accessing public services, including

²² Text available in Ukrainian at <http://zakon3.rada.gov.ua/laws/show/254-viii>. Furthermore, on 3 June 2015, Ukraine’s Parliament registered draft Law No 2004-a *On Amendments to the Law ‘On Ensuring Rights and Freedoms and Legal Regime at the Temporary Occupied Territory’ Regarding Strengthening Control over the Movement of Persons and Cargo through the Temporary Occupied Territory*, available in Ukrainian at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55432. The draft law expands the provisions of the Law ‘On Ensuring Rights and Freedoms and Legal Regime at the Temporary Occupied Territory’ adopted for Crimea in April 2014 to certain areas of the Donetsk and Luhansk regions. The draft law seeks to strengthen control over the movement of people and cargo between government and non-government controlled areas, providing for a special permit system for people and prohibiting movement of all cargo, except for humanitarian aid. A less restrictive, alternative draft law was registered with Parliament on 17 June 2015: Law No. 2004-a-1 *On Amendments to the Law ‘On Ensuring Rights and Freedoms and Legal Regime at the Temporary Occupied Territory’*, available in Ukrainian at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55611. This draft law is less restrictive than Law No 2004-a and simplifies the movement of people and cargo, providing for the movement of people without passes, allowing individuals to transport personal possessions and vehicles, and allowing for the movement of cargo (with a number of exceptions, such as for military goods).

²³ Legal developments in NGCAs are available at: <http://dnr-sovet.su/zakonodatelnaya-devatelnost/privatye/zakony/>, <https://nslnr.su/zakonodatelstvo/normativno-pravovaya-baza/>.

²⁴ See the section on *Children* below (pp. 11-12).

²⁵ UN General Assembly Resolution no. 68/282 of 27 March 2014 notes that the referendum in Crimea was not authorized by Ukraine and calls on States not to recognize any altered status of Crimea: United Nations General Assembly, *Resolution Adopted by the General Assembly on 27 March 2014: 68/262. Territorial Integrity of Ukraine*, 1 April 2014, A/RES/68/262, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/262.

²⁶ In accordance with Article 6 of the *Agreement between the Russian Federation and Republic of Crimea on Inclusion of Crimea in the Russian Federation*, text available in Russian at <http://kremlin.ru/events/president/news/20605>.

²⁷ Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea (March 2015)*, 21 April 2015, available in Russian at http://crimeahr.org/wp-content/uploads/2015/05/Obzor_KPM_Mart_2015_final.pdf, pp. 8-12; see also OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015; Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea (May 2015)*, 24 June 2015, http://crimeahr.org/wp-content/uploads/2015/06/Crimea_Field_Mission_Review_May_2015_ENG.pdf, pp. 8-9.

²⁸ Federal Constitutional Law of the Russian Federation, *On the Acceptance of the Republic of Crimea into the Russian Federation and the Creation of New Federal Subjects – the Republic of Crimea and the City of Federal Significance Sevastopol*. People were given until 18 April 2014 to opt out of Russian citizenship and choose to continue residing in Crimea as Ukrainian citizens with permanent residence. However, persons wishing to retain their Ukrainian citizenship reportedly faced difficulties preventing them from doing so, since they had only one month to file the necessary papers to refuse the acquisition of Russian citizenship, information about the procedures was not readily available and only a few offices of the Russian Federal Migration Service (FMS) could process these applications. UNHCR does not have information about the number of people who opted out of acquiring Russian citizenship.

health care, access to employment,²⁹ as well as concluding property-related contracts.³⁰ The Government of Ukraine still considers Ukrainian citizens residing in Crimea and the city of Sevastopol to be Ukrainian citizens, even if they have acquired Russian citizenship. In order to be able to acquire or renew Ukrainian passports or other civil documentation, Crimeans must travel to mainland Ukraine.³¹ However, freedom of movement between Crimea and mainland Ukraine has been curtailed. At the end of December 2014 train and public bus transport between mainland Ukraine and Crimea was suspended and has not since resumed.³² However, unofficial private transport services continue to run between mainland Ukraine and Crimea. Foreigners and stateless persons entering and exiting Crimea are required to obtain a permit from the authorities in Ukraine.³³

Internal displacement

7. As of 7 September 2015, the Ukrainian authorities report that 1,460,000 persons have registered as displaced.³⁴ The majority are living in regions bordering the conflict-affected areas, such as in the areas of Donetsk and Luhansk regions (52 per cent) controlled by the Ukrainian Government, as well as in Kharkiv, Dnipropetrovsk and Zaporizhia regions and in the city of Kyiv. Elderly persons reportedly make up 59 per cent of total registered IDP population and children nearly 13 per cent. Persons living with disabilities account for around 4 per cent of the displaced population.³⁵ This information indicates a high number of IDPs with specific needs.
8. Accurate statistics on the number of returnees remain unavailable, as the registration system does not provide data on returns or secondary movements within the country. According to monitoring reports and interviews, people who return generally do so when the security situation allows, to protect their property from looting or expropriation and to visit family members unable or unwilling to move and who have thus been left behind.³⁶ IDPs have also returned during the spring-summer period to engage in agricultural activities.³⁷ Some IDPs also return to NGCAs due to a lack of financial means in the GCAs. However, most IDPs in Ukraine have chosen not to return to their homes as the security and political situation remains unstable.³⁸

²⁹ Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea (March 2015)*, 21 April 2015, available in Russian at http://crimeahr.org/wp-content/uploads/2015/05/Obzor_KPM_Mart_2015_final.pdf, pp. 17-18.

³⁰ OSCE, *Thematic Report Freedom of Movement across the Administrative Boundary Line with Crimea*, 19 June 2015, <http://www.osce.org/ukraine-smm/165691>.

³¹ *Ibid.*

³² OSCE, *Thematic Report Freedom of Movement across the Administrative Boundary Line with Crimea*, 19 June 2015, <http://www.osce.org/ukraine-smm/165691>. On 30 January 2015, a border regime was introduced in the area adjacent to Crimea within mainland Ukraine (Cabinet of Ministers of Ukraine, Resolution No. 38 of 30 January 2015 *On Certain Issues of Strengthening of Ukraine's National Security Level*, available in Ukrainian at <http://zakon2.rada.gov.ua/laws/show/38-2015-%D0%BE>). In June 2015, further to the *Law on Temporarily Occupied Territories* (Article 10 of Law No. 1207-VII of 2014 *On Securing the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine*, 15 April 2014, available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/1207-18>, unofficial translation available at <http://www.refworld.org/docid/5379ab8e4.html>) Ukrainian authorities adopted a special procedure for the crossing of the administrative border line with Crimea. The new procedure provides for grounds under which foreigners and stateless persons can receive permits for entry and exit to Crimea and the city of Sevastopol and the procedure for its issuance (Cabinet of Ministers of Ukraine, Resolution No. 367 of 4 June 2015 *On Approval of the Procedure of Entry and Exit from and to Temporarily Occupied Territory of Ukraine*, available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/367-2015-%D0%BE>). The new procedure also affects foreign nationals leaving Crimea and children under 16 (OSCE, *Thematic Report Freedom of Movement across the Administrative Boundary Line with Crimea*, 19 June 2015, <http://www.osce.org/ukraine-smm/165691>; see also: Crimea SOS, *Analysis of the Procedure on Entry and Exit to Crimea*, June 2015, available in Russian at <http://krymsos.com/2015/06/22/analiz-poriadka-viezda-i-vvezda-iz-kryma>).

³³ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

³⁴ Figures received from the Ministry of Social Policy.

³⁵ *Ibid.*

³⁶ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

³⁷ UNHCR, *Participatory Assessment Conducted by UNHCR and Partners in Dnipropetrovsk Region, Ukraine*, April 2015, http://unhcr.org/ua/en/?option=com_content&view=article&layout=edit&id=1526.

³⁸ As reported by IDPs to UNHCR and partner organizations.

9. In October 2014 the Cabinet of Ministers adopted Resolution 509,³⁹ which established a unified registration system for IDPs, operated by the Ministry of Social Policy. Despite the increasing numbers of registered IDPs, certain categories of displaced persons face administrative hurdles to register as IDPs, including persons who lack the required documentation⁴⁰ (particularly for those from minority groups such as Roma);⁴¹ and new-born children with birth certificates issued in the NGCAs.⁴² In practice some IDPs do not register due to lack of information on the benefits of registration, or because they are ineligible for assistance and therefore do not see a reason to register.⁴³ Others fear military conscription;⁴⁴ discrimination in the employment or rental market; or they are afraid that registration could be seen as a political stand, which may have negative consequences for relatives who remain in the NGCAs or in terms of property they own in the NCGAs.⁴⁵ IDPs who for various reasons were unable to register, or who opted not to register, have reportedly been generally unable to access any State assistance, including both targeted financial assistance for IDPs⁴⁶ and regular social welfare entitlements.⁴⁷ Some humanitarian actors have also required IDP registration certificates prior to delivery of assistance.⁴⁸
10. In March 2015 the Cabinet of Ministers adopted a new resolution to amend IDP registration procedures.⁴⁹ The amendments provided for verification of IDP residence by law enforcement

³⁹ Cabinet of Ministers of Ukraine, Resolution No. 509 of 1 October 2014 *On Registration of Internally Displaced Persons from the Temporarily Occupied Territory of Ukraine and Anti-Terrorist Operation Area*, available in Ukrainian at <http://zakon2.rada.gov.ua/laws/show/509-2014-%D0%BF>.

⁴⁰ Brookings-Bern Project on Internal Displacement, *Off to a Shaky Start: Ukrainian Government Responses to Internally Displaced Persons*, 13 May 2015, <http://www.refworld.org/docid/55704ae04.html>, pp. 8-10, 16-18.

⁴¹ OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Situation Assessment Report on Roma in Ukraine and the Impact of the Current Crisis*, August 2014, <http://www.osce.org/odihr/124494>, p 34; see also: Internal Displacement Monitoring Centre (IDMC), *IDP Registration in Ukraine: Who's in? Who's out? And Who's Counting?* 19 March 2015, <http://www.internal-displacement.org/blog/2015/idp-registration-in-ukraine-whos-in-whos-out-and-whos-counting>. From the establishment of the unified registration system in October 2014 until the adoption of a Resolution by the Cabinet of Ministers in August 2015, geographic limitations to eligibility for IDP registration posed another obstacle to registration for IDPs from certain areas. In particular, based on Resolution No. 509 of the Cabinet of Ministers of Ukraine, the Departments of Social Policy in certain regions applied geographic criteria for IDP registration. In applying these geographic criteria, the Departments of Social Policy referred to the Cabinet of Ministers Order No. 1085 of 7 November 2014, which contains a list of places and settlements that are not under government control or partially not controlled by the government. IDPs fleeing settlements not included in the list were denied registration (including from settlements near the line of contact in the GCAs). See OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015 and OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015. In August 2015 the by-laws regulating the IDP registration procedure were amended to remove the geographic criteria: see Cabinet of Ministers of Ukraine, Resolution No. 636 of 26 August 2015, available in Ukrainian at <http://zakon1.rada.gov.ua/laws/show/636-2015-%D0%BF>.

⁴² Birth certificates are issued in GCAs for those born in NGCAs based on a hospital certificate. However, when hospitals in NGCAs mark the hospital certificate with the stamp of the de facto authorities, these certificates are not recognized in GCAs, and birth certificates not issued. UNHCR, *Ukraine Situation: UNHCR Operational Update*, 22 May - 8 June 2015, <http://www.refworld.org/docid/55cc51494.html>, p. 3.

⁴³ UNHCR, *Ukraine: Protection Strategy, June 2015*, 15 June 2015, <http://www.refworld.org/docid/55eeb9794.html>, p. 2, para. 2.4.

⁴⁴ UNHCR, *Participatory Assessments Conducted by UNHCR and Partners in Dnipropetrovsk, Zaporizhia, Kharkiv and Severodonetsk*, April-May 2015, http://unhcr.org.ua/en/?option=com_content&view=article&layout=edit&id=1526.

⁴⁵ OSCE Special Monitoring Mission to Ukraine, *Thematic Report: The Impact of the Crisis in Ukraine on its Western Regions*, <http://www.osce.org/ukraine-smm/148241?download=true>, pp. 11-12.

⁴⁶ Cabinet of Ministers of Ukraine, Resolution No. 505 of 1 October 2014, *On Providing Monthly Targeted Financial Support to Internally Displaced Persons from the Temporarily Occupied Territory of Ukraine and Anti-Terrorist Operation Area to Cover Housing Expenses, Including Utilities* (available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/505-2014-%D0%BF>), envisages monthly cash transfers to IDPs upon their registration with local departments of social protection in areas of displacement for a period of six months.

⁴⁷ On 7 November 2014 the Cabinet of Ministers of Ukraine adopted resolution No. 595 *On Aspects of State Funding of Public Institutions, Social Payments to Population and Support to Some Enterprises and Organizations of Donetsk and Luhansk Regions*, available in Ukrainian at <http://zakon1.rada.gov.ua/laws/show/595-2014-%D0%BF>. The resolution suspended state budget outlays, including payments to members of the population from pension and social security funds, in the NGCAs until the government regains control thereof, and allowed resumption of social assistance only to registered IDP population. Another Cabinet of Ministers' Resolution, No. 637 of 5 November 2014 *On Social Payments to Persons Displaced from Temporarily Occupied Territory of Ukraine and Areas of Anti-Terrorist Operation* (available in Ukrainian at <http://zakon2.rada.gov.ua/laws/show/637-2014-%D0%BF>) determines that age and disability pensions, state stipends, all kinds of social assistance and compensations, material support and services from the state budget are paid to IDPs at their actual place of residence provided it is confirmed by an IDP registration certificate.

⁴⁸ Information available to UNHCR.

⁴⁹ Cabinet of Ministers of Ukraine, Resolution No. 79 *Some Aspects of Issuance of Certificates to Persons Displaced from Temporarily Occupied Territory of Ukraine and Districts of Anti-Terrorist Operation*, 4 March 2015, available in Ukrainian at <http://zakon1.rada.gov.ua/laws/show/79-2015-%D0%BF/paran2#n2>.

agencies, and the power to de-register individuals found not to be living at their place of residence. As a consequence, more than 8,000 IDPs have reportedly had their registration certificates ‘cancelled’ after not appearing during the government-mandated ‘spot-checks’ foreseen under the resolution.⁵⁰ The resolution has led to concerns about restrictions on freedom of movement, given the difficulty of de-registering in one location and then registering in another.⁵¹ This is of particular concern given that the majority of IDPs report having moved at least once following their initial displacement, often due to the lack of available assistance and/or employment opportunities in the first place of displacement.⁵²

External displacement

11. The largest number of externally displaced Ukrainian nationals are in the Russian Federation. According to data provided by the Russian Federation’s Federal Migration Service (FMS), as of 4 August 2015, 383,300 Ukrainians had applied for international protection,⁵³ and a further 528,200 had applied for other forms of legal stay.⁵⁴ The number of applications for international protection by Ukrainian nationals has also increased in other European countries. Between 1 January 2014 and 31 July 2015, close to 24,000 Ukrainians applied for international protection in European Union member States, including 5,613 in Germany, 4,546 in Italy, 3,900 in Poland, 2,221 in Sweden and 2,211 in France.⁵⁵ Belarus has received 1,250 applications as of 27 August 2015. Ukrainian nationals have also applied for other forms of legal stay in other countries, including 125,200 in Belarus and 67,400 in Poland.⁵⁶

Human Rights Situation and Reasons for Displacement

12. Residents of NGCAs and conflict-affected areas adjacent to the line of contact, including those under government control, continue to be forcibly displaced. People report leaving for a variety of reasons, including general insecurity due to on-going shelling;⁵⁷ fear of armed groups; destroyed houses and property; shortages of water, electricity, and heating; limited access to health services and education; and lack of livelihood opportunities.⁵⁸ The government’s suspension of social benefit payments and provision of services in the NGCAs of the Donetsk and Luhansk regions is also reported to have contributed to additional displacement, in particular of persons with specific needs.⁵⁹
13. Crimeans report leaving for a variety of reasons, including the fact that they do not want their children to be educated in the Russian school system. Others reportedly leave because they fear that they or their children would be subjected to compulsory military service in the Russian army.⁶⁰ Some groups are reported to be at particular risk of being subjected to unlawful limitations on the rights to freedom of religion and freedom of expression, association and assembly.⁶¹ For example, control by the local *de facto* authorities over religious associations and their exercise of the right to freedom of religion is reported to continue to strengthen, and religious groups such as the Ukrainian Orthodox Church,

⁵⁰ Information obtained by UNHCR from the Ministry of Social Policy.

⁵¹ Kharkiv Human Rights Protection Group (KhPG), *New Government Ruling Makes Life for Displaced People Even Harder*, 13 March 2015, <http://www.khpg.org/en/pda/index.php?id=1426107016>. According to information obtained by UNHCR, validation of IDP certificates is conditional on the verification of IDP residence by the migration services at the new place of stay. There are concerns about the difficulties involved in re-registering at a new place of stay as well as the time it takes.

⁵² Information available to UNHCR via protection monitoring. UNHCR does not have information about how many IDPs have been de-registered, as no government data exist.

⁵³ This figure includes the number of applications for temporary asylum and refugee status.

⁵⁴ Other forms of legal stay include: Russian citizenship or “Compatriots’ Repatriation Programme” (integration and support plan for foreign residents with family links to the Russian Federation), as well as temporary and permanent residence permits (which can be granted to foreigners already residing legally for at least six months in the Russian Federation).

⁵⁵ Official figures reported to UNHCR by respective national asylum authorities.

⁵⁶ Official figures reported to UNHCR by respective national asylum authorities as of end August 2015.

⁵⁷ According to information available to UNHCR, the security situation in the NGCAs differs from area to area, however people residing close to the contact line where sporadic fighting/shelling takes place are of particular concern.

⁵⁸ Information available to UNHCR and partner organizations.

⁵⁹ Assessment Capacities Project (ACAPS), *Global Emergency Overview Snapshot 15-21 July 2015*, 21 July 2015, http://reliefweb.int/sites/reliefweb.int/files/resources/geo_62.pdf, p. 109.

⁶⁰ Information available to UNHCR and partner organizations.

⁶¹ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

Jehovah's Witnesses, and Muslims are reportedly facing increased control of their activities.⁶² Furthermore, Crimean Tatars who are perceived to express political views opposing the Russian *de facto* authorities in Crimea have reportedly faced restrictions on their right to freedom of assembly.⁶³ This is reported to be one of the reasons for additional displacement of members of the ethnic Tatar population from Crimea.⁶⁴

Freedom of movement and access to civil, political, economic and social rights for IDPs

14. Since November 2014, Ukrainian authorities have adopted a series of measures to regulate the movement of individuals, transport and cargo across the line of contact between the GCA and NGCA. As of January 2015 a permit is needed to cross the line of contact in both directions.⁶⁵ This procedure has severely restricted freedom of movement for all individuals, limiting their ability to leave conflict-affected areas and/or to return home to visit family members, to check on property, or to engage in agricultural tasks or other activities related to livelihoods (in particular during the spring-summer season).⁶⁶ Irregular application of the rules as well as interruptions to the electronic pass system at check-points have led to long queues, with vehicles and passenger buses having to wait several hours or days at check-points, often without access to water or sanitation services.⁶⁷ The difficulty in obtaining permits is reported to have resulted in civilians trying to circumvent the checkpoints by crossing through fields and forests. This exposes them to landmines and explosive remnants of war, and there have been reports of people being injured or killed while trying to cross the contact line irregularly.⁶⁸
15. Amendments to the permit system adopted on 12 June 2015⁶⁹ allow for online applications and the issuance of electronic permits. However, this means that applicants need to have Internet access. Moreover, delays are reported to continue. Furthermore, although the revised version of the temporary order waived the requirement to obtain a permit for emergency situations, crossing the contact line in such situations essentially remains at the discretion of officers at checkpoints.⁷⁰ Other new provisions have further restricted the movement of

⁶² Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea*, June 2015, http://crimeahr.org/wp-content/uploads/2015/08/Crimea_Field_Mission_Review_June_2015_Eng.pdf. For example, four Crimean Tatars have reportedly been detained on charges of involvement with the organization Hizb-ut-Tahrir. The charges are reported by local residents to be biased and politicized, as they are apparently based on the notion that anyone who adheres very closely to the rules of Islam may be suspected of having links with Hizb-ut-Tahrir.

⁶³ Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea*, June 2015, http://crimeahr.org/wp-content/uploads/2015/08/Crimea_Field_Mission_Review_June_2015_Eng.pdf. For example, Crimean Tatars have reportedly been prevented from commemorating the Crimean Tatar National Flag Day, and in June 2015 a number of Crimean Tatars were reportedly charged with administrative offenses and given fines for organizing or participating in events to commemorate the deportation of Crimean Tatar people.

⁶⁴ *Ibid.*

⁶⁵ Security Service of Ukraine (SSU), Order No. 24 of 22 January 2015, *Temporary Procedures for Control over Movements of Individuals, Vehicles and Goods along the Contact Line in Donetsk and Luhansk Regions*, http://www.sbu.gov.ua/sbu/control/eng/publish/article?art_id=136040&cat_id=35317.

⁶⁶ OSCE, *Thematic Report: Protection of Civilians and their Freedom of Movement in the Donetsk and Luhansk Regions*, <http://www.osce.org/ukraine-smm/156791>.

⁶⁷ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015, par. 61. According to information available to UNHCR, people queuing at checkpoints have also been wounded by booby traps in the nearby woods, as there are no sanitary facilities at the checkpoints (5 individuals wounded since June 2015).

⁶⁸ Atlantic Council, 27 July 2015, *Ukraine's IDP Crises Worsens as Local Attitudes Harden*, <http://www.atlanticcouncil.org/blogs/new-atlanticist/ukraine-s-idp-crisis-worsens-as-local-attitudes-harden>; see also OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

⁶⁹ SSU Order No 415 of 12 June 2015, *Temporary Procedures for Control over Movements of Individuals, Vehicles and Goods along the Contact Line in Donetsk and Luhansk Regions*, available in Ukrainian at <http://officevp.sfs.gov.ua/media-ark/news-ark/202298.html>, available in English (extracts) at http://www.sbu.gov.ua/sbu/control/en/publish/article;jsessionid=532D46944C49E0D23AFF3D57327F76AC.app1?art_id=136879&cat_id=35317. Improvements include: the possibility to leave conflict areas without a permit in case of emergency; regulated procedure for crossing the line of contact for children and former prisoners who have served their sentences; additional transport corridor in Luhansk region; no need to receive a separate permit for private vehicles.

⁷⁰ According to information available to UNHCR, the process of applying for and obtaining the electronic permit takes a minimum of ten days to complete, and an applicant has to wait up to 14 working days after completion to receive confirmation that the contact line may be crossed. Moreover, elderly and people with financial difficulties might have problems accessing computers and internet services, which are a requirement for applying electronically.

commercial goods, including food and medicines into NGCAs.⁷¹ This has reportedly led to a sharp deterioration in the humanitarian situation in NGCAs, with acute shortages of food, medicines and basic goods such as hygiene items.⁷² At the time of writing, access by humanitarian actors to the NGCAs is also hampered by uncertainty over a registration requirement from the de facto authorities.⁷³ Although humanitarian aid is distributed to children and people aged over 60, unemployed adults (21-60 years old) are not entitled to assistance, with many adults becoming increasingly vulnerable due to both shortages of assistance and lack of employment opportunities in the NGCAs.⁷⁴ Following the June 12 amendments public transport between GCAs and NGCAs has been banned, further hampering movement of people across the contact line.⁷⁵

16. On 20 October 2014 the Ukrainian Parliament adopted a law *On Ensuring Rights and Freedoms of Internally Displaced Persons* (“the IDP law”); it came into force on 22 November 2014.⁷⁶ The law addresses a wide range of issues, including protection against discrimination and forcible return; assistance in voluntary returns; simplified access to social and economic services, including residence registration, employment and free accommodation for six months. The law also obliges the government to develop a policy on the integration of IDPs, which at the time of writing is being drafted.⁷⁷
17. However, the impact of the IDP law is contingent on the adoption of various by-laws and regulations on the implementation of various provisions can be implemented. The Cabinet of Ministers has previously adopted resolutions covering registration, social assistance, employment and entrepreneurship, education and other issues specific to IDPs, while others are still pending.⁷⁸ Certain resolutions that were initially not aligned with the IDP law have been revised by the Government to strengthen the coherence of the legal framework for IDP protection.⁷⁹ Other provisions are not being implemented due to a lack of regulatory provisions and financial resources to local and regional authorities, such as the provision guaranteeing free housing for IDPs for six months.
18. In March 2015 the government extended the financial assistance programme for IDPs,⁸⁰ which was first established in October 2014.⁸¹ However, in most cases, the amount provided

⁷¹ On 17 July 2015, Parliament adopted the Presidential Law No. 2109a, *On Introduction of Amendments to Certain Legislative Acts of Ukraine Regarding the Procedure of Movement of Goods to the Area or from the Area of Anti-Terrorist Operation*, available in Ukrainian at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55628. Humanitarian aid from international humanitarian actors to the NGCAs is currently suspended, however humanitarian assistance is provided by the Akhmetov Foundation and the Russian Federation.

⁷² OCHA, *Ukraine Situation Update No. 6, 10 July 2015*, http://reliefweb.int/sites/reliefweb.int/files/resources/ocha_ukraine_situation_update_27_june_-_10_july_2015.pdf.

⁷³ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

⁷⁴ Information available to UNHCR via protection monitoring; see also OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

⁷⁵ According to information available to UNHCR all people face problems in terms of freedom of movement through the checkpoints, due to long queues to exit and enter, and the fact that transportation is available only to travel to the checkpoint, after which people have to cross on foot (a distance up to 15 kilometers), and then find other means of transportation to travel further. See also OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

⁷⁶ Law No. 1706-VII of 20 October 2014, *On Ensuring Rights and Freedoms of Internally Displaced Persons*, unofficial translation available at [http://unhcr.org.ua/attachments/article/1231/IDPlawENG%20\(3\).doc](http://unhcr.org.ua/attachments/article/1231/IDPlawENG%20(3).doc).

⁷⁷ The National Plan of Integration is currently being drafted by the Ministry of Social Policy.

⁷⁸ Resolutions No 213, 505, 509, 535, 595, 471, 473 (list not exhaustive) adopted by the Cabinet of Ministers of Ukraine are publicly available at the Cabinet of Ministers of Ukraine’s official website: <http://www.kmu.gov.ua/>. Current concerns include a restrictive IDP definition which does not include stateless individuals and foreigners who are entitled to permanent residence in Ukraine; overly complex registration procedures; a limited validity of IDP certificates; ineffective appeal mechanisms for those denied IDP registration; and inadequate conditions for integration into host communities. In May 2015, Parliament registered the first reading of draft Law No. 2166 *On Amendments to Some Laws of Ukraine to Strengthen the Guarantees of the Rights and Freedoms of IDPs*”, which proposes positive amendments to this legislation; available in Ukrainian at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=54093.

⁷⁹ As noted above (see footnote 40), while the IDP Law does not place geographic limitations on the definition of who may be considered an IDP, registration for IDPs was initially limited to persons originating from particular areas defined by the government as ‘temporarily occupied territories’.

⁸⁰ Cabinet of Ministers of Ukraine, Resolution No. 212 of 31 March 2015, *On Amendments to Procedure on Providing Monthly Targeted Financial Support to Internally Displaced Persons from the Temporarily Occupied Territory of Ukraine and Anti-Terrorist Operation Area to Cover Housing Expenses, Including Utilities*, available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/212-2015-%D0%BF>.

is reported to be insufficient to cover accommodation, food, clothing, medical and other living expenses.⁸² The financial assistance provided is also for a limited timeframe, and as there are also many administrative and practical hurdles to accessing this assistance,⁸³ many IDPs continue to face acute financial difficulties in meeting their basic needs.⁸⁴ In addition, there is no compensation foreseen for damaged or destroyed property in NGCAs.⁸⁵ This, together with the lack of access to savings in bank accounts in NGCAs, further complicates the situation for IDPs. Many IDPs have already exhausted the government-provided financial assistance, along with savings that IDPs may have been able to take with them.⁸⁶

19. There have been various civil society efforts to support persons displaced into the GCAs, with several community-based organizations having been created for this specific purpose. These organizations receive some support from the international community but face problems of sustainability and a lack of resources to provide IDPs with adequate support. IDPs find themselves competing with members of the host community for jobs, apartments and other scarce resources, such as places in primary and secondary schools. Access to accommodation has been one of the main concerns of IDPs, and displacement has led to sharp increases in the rental levels in many cities, leading to resentment by the host community. This has further contributed to discrimination against IDPs in the areas of employment and housing,⁸⁷ as well as social tensions, stigmatization and general discrimination against IDPs, many of whom are struggling to integrate.⁸⁸ In the GCAs there is currently no State programme in place to accommodate IDPs (including IDPs with specific needs). The majority of IDPs live in rented accommodation, while others live with families or friends and a small percentage in collective centres.⁸⁹ IDPs in NGCAs are provided accommodation in collective centres funded by the *de facto* authorities,⁹⁰ or provided with empty apartments, where they are only asked to cover the cost of utilities.⁹⁰
20. The government has adopted legislative and regulatory developments to expand assistance to IDPs and facilitate their integration. In July 2015, the government amended its by-laws so as to make it easier for IDPs from NGCAs to claim unemployment benefits.⁹¹ In July 2015 the government also adopted the *Plan of Action for Resolution of Employment Problems of IDPs*

⁸¹ Cabinet of Ministers of Ukraine, Resolution No. 505 of 1 October 2014, *On Providing Monthly Targeted Financial Support to Internally Displaced Persons from the Temporarily Occupied Territory of Ukraine and Anti-Terrorist Operation Area to Cover Housing Expenses, Including Utilities*, available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/505-2014-%D0%BF>.

⁸² *Ibid.* Under the resolution, IDPs of working age receive 442 Ukrainian Hryvnia (UAH) per person, those of non-working age (elderly, children) 884 UAH, and disabled IDPs 949 UAH, with a maximum of 2,400 UAH per household provided monthly for a period of six months. The amounts are considerably below subsistence level. Subsistence rates for Ukraine are available at http://search.ligazakon.ua/l_doc2.nsf/link1/SH000419.html.

⁸³ On 15 June 2015, Ukraine's Cabinet of Ministers adopted a set of amendments to procedures for State financial assistance to IDPs, providing that financial assistance would only be disbursed through branches of "Oschadbank"; text available in Ukrainian at <http://www.kmu.gov.ua/control/ru/cardnpd?docid=248287221>. Another difficulty in accessing financial assistance stems from the mandatory verification of IDP residence by local migration services, being a pre-condition for inclusion in State assistance schemes – procedure instigated in March 2015 further to Resolution No. 79, available at <http://zakon2.rada.gov.ua/laws/show/79-2015-%D0%BF>.

⁸⁴ UNHCR, *Participatory Assessments Conducted by UNHCR and Partners in Dniporpteroivsk, Zaporizhia, Severodonetsk, Kharkiv, Kyiv and Mariupol*, April-May 2015, http://unhcr.org.ua/en/?option=com_content&view=article&layout=edit&id=1526.

⁸⁵ As of 5 August 2015, Ukraine did not have any legislative provisions for compensation for damaged and lost property for conflict-affected populations. Draft law No. 2167 makes provision for such compensation to IDPs: text in Ukrainian available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=54094.

⁸⁶ UNHCR, *Participatory Assessments Conducted by UNHCR and Partners in Dniporpteroivsk, Zaporizhia, Severodonetsk, Kharkiv, Kyiv and Mariupol*, April-May 2015, http://unhcr.org.ua/en/?option=com_content&view=article&layout=edit&id=1526. According to information obtained, the monthly financial assistance provided is supposed to cover expenses related to housing and other basic needs.

⁸⁷ Information obtained by UNHCR through protection monitoring and field visits.

⁸⁸ UNHCR, *Participatory Assessment Conducted by UNHCR and Partners in Kyiv*, April-May 2015, http://unhcr.org.ua/en/?option=com_content&view=article&layout=edit&id=1526.

⁸⁹ The majority of IDPs live in rented accommodations (e.g. about 57.2% for the Kharkiv region and 52.5% for the Donetsk region, according to the REACH survey). Others are hosted by family or friends (e.g. about 25.6% for the Kharkiv region and 22.8% for the Donetsk region). The remainder stays in collective centres (e.g. about 7.4% for the Kharkiv region and 14.5% for the Donetsk region).

⁹⁰ Information available to UNHCR through monitoring in NGCAs.

⁹¹ Cabinet of Ministers of Ukraine, Resolution No. 473 of 8 July 2015, available in Ukrainian at <http://www.kmu.gov.ua/control/uk/cardnpd?docid=248314703>. Information also obtained by UNHCR through monitoring.

for 2015-2016.⁹² This Plan of Action provides a roadmap for further regulatory measures to address employment and livelihoods concerns related to IDPs. On 25 August 2015, President Poroshenko approved the *National Strategy on Human Rights*, which outlines the major objectives of the State human rights policy, and refers to the protection of displaced and conflict-affected people in GCAs.⁹³

Persons with specific needs

21. Certain categories of IDPs are reported to face particular challenges in meeting their basic needs, including persons with limited mobility and other disabilities, persons of pre-retirement age, female-headed households, and elderly persons, particularly those with no family members or host community to support them.⁹⁴ For these groups, the general obstacles faced by all IDPs are compounded by a lack of dedicated reception facilities and social assistance schemes for persons with specific needs,⁹⁵ with a lack of accommodation for those with limited mobility a particular problem.⁹⁶ With access to housing, education, and employment opportunities being a challenge for many IDPs throughout the country, displaced persons living with disabilities face even more obstacles in this regard.⁹⁷
22. Some categories of vulnerable IDPs are not included in the government's vulnerability criteria. For example, persons of pre-retirement age are not eligible for State pensions, but are also discriminated against in the employment market as employers are reluctant to hire older workers. As a result they may find themselves without any means of financial support. These persons are not easily identifiable within the government's registry of IDPs.⁹⁸
23. Isolated non-mobile people (such as elderly persons and persons living with disabilities) in NGCAs are particularly vulnerable. Given the breakdown of social services in NGCAs, in particular in rural areas and areas close to the contact line in GCAs, these people may remain without assistance for extended periods of time. People living in institutional care facilities are also reported to be at risk, with reports of an increased death rate due to stress-related causes, malnutrition, as well as a lack of access to medicine in some facilities.⁹⁹ Elderly IDPs and IDPs living with disabilities, who may previously have had access to subsidized medication, reportedly cannot always access these subsidies as the health budget in the areas of displacement does not provide for this, making medication unaffordable.¹⁰⁰ Interruptions in supply and shortages of life-saving medicines for IDPs have also been reported.¹⁰¹ Other concerns which impact on persons living with disabilities include the inaccessibility of bomb shelters to those who have restricted mobility, as well as lack of access to information about rights and services, particularly for those who are vision and hearing impaired, resulting in difficulties in accessing assistance.¹⁰²
24. From 1 December 2014 the government suspended payments of pensions and other social

⁹² The Plan provides for assistance to unemployed IDPs; text in Ukrainian available at <http://zakon4.rada.gov.ua/laws/show/505-2015-%D0%BF>.

⁹³ Decree No. 501/2015 adopting the National Human Rights Strategy, available in Ukrainian at <http://www.president.gov.ua/documents/5012015-19364>.

⁹⁴ UNHCR, *Participatory Assessments Conducted by UNHCR and Partners in Dnipropetrovsk, Zaporizhia, Severodonetsk, Kharkiv and Kyiv*, April-May 2015, http://unhcr.org.ua/en/?option=com_content&view=article&layout=edit&id=1526.

⁹⁵ The situation of persons living with disabilities in Ukraine was reportedly poor even prior to the conflict in the east, with limited accessibility of buildings, labour discrimination, lack of access to courts, and limited accessibility of educational institutions for persons living with disabilities. Ukrainian Helsinki Group, *Human Rights in Ukraine – 2013*, <http://helsinki.org.ua/index.php?id=1398092466>.

⁹⁶ UNHCR has seen lists of available housing compiled at the municipal level; very few landlords or collective centres are ready to accept persons with disabilities.

⁹⁷ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 February 2015, <http://www.refworld.org/docid/55115a7d4.html>, para. 55; see also *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

⁹⁸ Information available to UNHCR through participatory assessments.

⁹⁹ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015; see also OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

¹⁰⁰ Information available to UNHCR through monitoring and participatory assessments.

¹⁰¹ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

¹⁰² Information available to UNHCR through participatory assessments.

benefits in NGCAs until the re-establishment of control over these territories by Ukraine.¹⁰³ Given that this was the only source of income for many people living with disabilities and elderly people, this disruption had a serious impact on their ability to afford basic goods such as food and medicine. It also led to displacement, since people had to move from NGCAs to GCAs if they wished to continue receiving state benefits. The government's decision was challenged before the Administrative Court of Appeal, which ruled that the suspension of payments was unlawful.¹⁰⁴ However, at the time of writing the Court of Appeal's judgment was being appealed by the government.¹⁰⁵ Pensioners have reportedly been receiving pension payments from the *de facto* authorities in 'Donetsk People's Republic' (DPR) and the 'Luhansk People's Republic' (LPR) since April 2015.¹⁰⁶ Reportedly IDPs do not have to register as IDPs in NGCAs in order to receive pensions, but will be paid their pensions in Russian rubles on a monthly basis at the local Pension Fund administration in NGCAs.¹⁰⁷

25. The situation of women is of particular concern. The laws and policies to protect and assist IDPs in Ukraine do not recognize particular vulnerabilities related to gender. Instances of sexual and gender based violence (SGBV) have been reported both during and after displacement in GCAs.¹⁰⁸ There have also been reports of women engaging in sexual relations with soldiers, in exchange for material support or money.¹⁰⁹ Moreover, the risk of domestic violence in Ukraine is reported to have risen sharply in the context of the ongoing conflict and the deteriorating economic situation. Traumatized men returning from military service are reported to be responsible in part for the increase in domestic violence.¹¹⁰
26. Ukraine is a country of origin, transit and destination for trafficking in men, women and children, with IDPs being particularly vulnerable to exploitation, due to economic hardship and weak ties with host communities.¹¹¹

Children

27. Children often bear the brunt of displacement, with many children reported to be traumatized by the conflict and in need of specialized psychosocial support. Gaps in the legal framework related to IDP protection further exacerbate the situation of children affected by displacement; for example, children born in NGCAs experience difficulties in obtaining Ukrainian birth certificates in GCAs, since hospital certificates, which are the basis for receiving birth registration certificates, are often not recognized in GCAs if they bear the stamp of 'DPR' or 'LPR'.¹¹²

¹⁰³ The Cabinet of Ministers of Ukraine, Resolution No 595 of 7 November 2014, *On Some Issues of Financing Budget Institutions, Paying Social Benefits and Providing Financial Support to Individual Enterprises and Organizations in Donetsk and Luhansk Regions*, available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/595-2014-%D0%BF>.

¹⁰⁴ Kyiv Administrative Court of Appeal, decision No. 826/18826/14 of 2 April 2015, available in Ukrainian at <http://reyestr.court.gov.ua/Review/43438378>.

¹⁰⁵ Novorossia Today, *Court Verdict Obliging Ukrainian Government to Resume Paying of Retirement Pensions to the Dwellers of Donbass will be Appealed Against*, 3 April 2015, <http://novorossia.today/court-verdict-obliging-ukrainian-government-to-resume-paying-of-retirement-pensions-to-the-dwellers-of-donbass-will-be-appealed-against/>; see also Korrespondent, *Court Decision on Pension Payments to Donbas Residents Will Be Appealed in the Court*, available in Ukrainian at <http://korrespondent.net/ukraine/3499207-reshenye-po-vyplate-pensyi-zhyteliam-donbassa-obzhaluuit-v-sude>.

¹⁰⁶ According to the 'pension fund' of the DPR 523,000 pensioners living in territory under the control of the DPR received a pension payment for July 2015 in rubles; figures for the LPR are not available.

¹⁰⁷ Information available to UNHCR via protection monitoring in NGCAs. Those already registered in GCAs, but who apply for pensions in NGCAs, are treated on a case-by-case basis, which normally entails submitting supporting documents.

¹⁰⁸ Information obtained by UNHCR during participatory assessments in the GCA at the line of contact with NGCAs.

¹⁰⁹ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015.

¹¹⁰ Radio Free Europe/Radio Liberty, *'Men Return Completely Changed': Ukraine Conflict Fueling Surge in Domestic Violence*, 26 August 2015, <http://www.rferl.org/content/ukraine-conflict-domestic-violence/26979064.html>; Newsweek, *Crisis in Ukraine Leads to a Spike in Domestic Violence*, 23 April 2015, <http://europe.newsweek.com/crisis-ukraine-leads-spike-domestic-violence-324441>.

¹¹¹ OSCE Special Monitoring Mission to Ukraine, *Gender Dimensions of SMM's Monitoring: One Year of Progress*, 22 June 2015, <http://www.osce.org/ukraine-smm/165806>; IOM, *Statistical Report "Combating Trafficking in Human Beings"*, 31 March 2015, <http://www.iom.org.ua/en/combating-human-trafficking>; OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 February 2015, <http://www.refworld.org/docid/55115a7d4.html>, para. 63.

¹¹² UNHCR, *Ukraine Situation: UNHCR Operational Update*, 22 May - 8 June 2015, <http://www.refworld.org/docid/55cc51494.html>, p. 3.

28. Some IDP children also report being stigmatized by their peers at school.¹¹³ Students completing high school in NGCAs report having difficulties in accessing university in GCAs, with high school certificates issued in NGCAs not recognized by the Ministry of Education and Science of Ukraine.¹¹⁴
29. Concerns have been expressed about the militarization of children in NGCAs, with the introduction of military education in schools.¹¹⁵ The *de facto* authorities in the DPR have also introduced a “law” lowering the age at which individuals can be employed on a full-time basis to 14 years. This raises particular concerns in relation to displaced children who, as a result of increased economic vulnerability, face a heightened risk of being engaged in child labour and other human rights violations.¹¹⁶

Minorities

30. Since the conflict began, approximately 10,000 Roma people are estimated to have fled from their residences in the eastern part of the country.¹¹⁷ Since many Roma have never held identity documents, they are often unable to register as IDPs and access government assistance and services. There is a general lack of awareness among IDP Roma regarding the importance and benefits of IDP registration.¹¹⁸ Roma IDPs are highly marginalized as a result of multiple forms of discrimination and stigmatization. In addition to reports of physical violence, they have also been targeted by anti-Roma political discourse in the media.¹¹⁹ Host populations are reported to be less likely to show the same generosity to Roma IDPs as to other IDPs; as a result, many Roma IDPs face additional obstacles in finding employment and accommodation.¹²⁰
31. Crimean Tatars in Crimea are reported to be at risk of arbitrary arrests, house searches, abusive questioning, accusations of promoting extremism and other manifestations of intolerance by the Russian *de facto* authorities.¹²¹
32. Particular concerns have been expressed about the situation of individuals of diverse sexual orientations and gender identities in the NGCAs. These individuals are also reported to face serious risks in Crimea.¹²² Due to broader patterns of discrimination in society, individuals of diverse sexual orientations and gender identities who become internally displaced are likely to face additional barriers in accessing assistance.

¹¹³ UNHCR, *Participatory Assessments Conducted by UNHCR and Partners in Dnipropetrovsk, Zaporizhia, Kharkiv, and Severodonetsk*, April-May 2015, http://unhcr.org.ua/en/?option=com_content&view=article&layout=edit&id=1526.

¹¹⁴ Order Number 1/9-535 of 14 October 2014 states that education documents issued in Crimea and NGCAs will not have legal validity. The Order states that students must register for and sit examinations in GCAs in order to receive Ukrainian education certificates. OSCE Special Monitoring Mission to Ukraine, *Situation Update*, 23 June 2015, <http://www.osce.org/ukraine-smm/166601>. See also UNHCR, *Participatory Assessment Conducted by UNHCR and Partners in Severodonetsk*, April 2015, http://unhcr.org.ua/en/?option=com_content&view=article&layout=edit&id=1526. The Ukrainian Government is, however, taking steps to facilitate access to education for students from NGCAs, such as providing for extended enrollment periods and extended time-frames for sitting university examinations for those students coming from NGCAs.

¹¹⁵ Kyiv Post, *In Russian-Occupied Donetsk, Debate Heated over Use of Child Soldiers in War against Ukraine*, 6 July 2015, <http://www.worldaffairsjournal.org/content/russian-occupied-area-ukraine-potentially-using-child-soldiers>.

¹¹⁶ Legal developments in NGCAs are available at <http://dnr-sovet.su/zakonodatelnaya-deyatelnost/prinyatye/zakony/>; <https://nslnr.su/zakonodatelstvo/normativno-pravovaya-baza/>; see also Donetsk News Agency, *Parliament Allows Child Labour from 14 Years*, 29 May 2015, <http://dan-news.info/politics/parlament-dnr-razreshil-legkij-trud-dlya-podrostkov-s-14-let.html>.

¹¹⁷ WHO, *WHO and Partners Increase Focus on Roma Population in Ukraine*, 23 April 2015, <http://www.euro.who.int/en/countries/ukraine/news/news/2015/04/who-and-partners-increase-focus-on-roma-population-in-ukraine>.

¹¹⁸ UNHCR, *Protection Monitoring Report, Northern Donetsk Region*, July 2015, http://unhcr.org.ua/en/?option=com_content&view=article.

¹¹⁹ OSCE, *Roma Youth as Agents for Change, New Challenges in Ukraine*, 8 April 2015, <http://www.osce.org/odihr/150141>.

¹²⁰ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015, par. 81; UNHCR, *Participatory Assessment Conducted by UNHCR and Partners in Dnipropetrovsk*, April 2015, http://unhcr.org.ua/en/?option=com_content&view=article&layout=edit&id=1526.

¹²¹ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015.

¹²² LGBTI Human Rights Nash Mir Center and Council of LGBT Organizations of Ukraine, *From Despair to Hope*, http://www.gay.org.ua/publications/lgbt_ukraine_2014-e.pdf.

33. Religious minorities, including Protestants and Jehovah's Witnesses, are also reported to be facing persecution in NGCAs, with buildings of worship being seized by armed men,¹²³ and worshippers being abducted and beaten.¹²⁴

Mobilization and conscription

34. The large-scale mobilization of men aged 18 to 26 years old, which began in 2014 continued throughout 2015.¹²⁵ Resistance to conscription has reportedly been growing due to a number of factors, including objections to participation in a civil conflict where war crimes against prisoners held by both sides have been reported,¹²⁶ and where killings of fellow countrymen are likely to occur. Others report fears of being sent to fight with inadequate training and equipment.¹²⁷ IDPs have also voiced concerns about the possibility of being called for military service in their regions of origin, where they are likely to encounter their former neighbours, and the fear that fighting for the Ukrainian army will effectively prevent them from returning to their homes one day, as they would be subjected to social exclusion. Fighting in areas of origin may also expose remaining family members to security risks.¹²⁸ Whilst conscription practices vary from region to region, the government is reported to have stepped up prosecution of those suspected of evading conscription and mobilization,¹²⁹ with reports of coercive measures being used in certain areas.¹³⁰ There are also reports of men leaving NGCAs through the Russian Federation or by trying to avoid official border checkpoints, for fear of being mobilized.¹³¹
35. There are reports of displaced men of conscription age from the Donbas being faced with resentment in some GCAs, because they are perceived as evading conscription.¹³² For the same reason, IDP families with a men of fighting age in western Ukraine report facing

¹²³ In a statement issued on 20 May, the head of the DPR threatened to "brutally fight sects" and stated it did not recognize any religions apart from Orthodoxy, Roman Catholicism, Islam and Judaism: OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015, paras 83-84; see also Jehovah's Witnesses, *Religious Buildings Seized in Eastern Regions of Ukraine*, 13 February 2015, <http://www.jw.org/en/news/legal/by-region/ukraine/donetsk-luhansk-religious-buildings-seized/>; NPR, *Ukrainian Protestants Say Religious Intolerance Rising in Donetsk*, 29 March 2015, <http://www.npr.org/2015/03/29/396128363/ukrainian-protestants-say-religious-intolerance-rising-in-donetsk>.

¹²⁴ Jehovah's Witnesses, *Targeted for Religious Beliefs in Eastern Ukraine*, 10 July 2015, <http://www.jw.org/en/news/legal/by-region/ukraine/religion-persecution-jw-beliefs/>; see also Center for Civil Liberties and International Partnership for Human Rights in the framework of the Civic Solidarity Platform, *When God Becomes The Weapon, Persecution Based on Religious Beliefs in the Armed Conflict in Eastern Ukraine*, April 2015, http://ccl.org.ua/wp-content/uploads/2013/07/When-God-Becomes-The-Weapon_6May2015_closed-for-editing.pdf.

¹²⁵ In mid-January 2015, Ukraine's Parliament endorsed President's Poroshenko's decree announcing partial de-mobilization of formerly drafted military personnel and instituting partial conscription or "mobilization", split into three "waves". Law No. 113-VIII of 15 January 2015 *On Approval of the Decree of the President of Ukraine "On Partial Mobilization"*, available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/113-19>; Decree of the President of Ukraine No. 15/2015 of 14 January 2015 *On Partial Mobilization*, available in Ukrainian at <http://zakon2.rada.gov.ua/laws/show/15/2015>.

¹²⁶ Amnesty International, *Ukraine: Overwhelming New Evidence of Prisoners Being Tortured and Killed amid Conflict*, 22 May 2015, <https://www.amnesty.org/en/latest/news/2015/05/ukraine-new-evidence-prisoners-tortured-and-killed-amid-conflict/>.

¹²⁷ Foreign Policy, *The Draft Dodgers of Ukraine*, 18 February 2015, <http://foreignpolicy.com/2015/02/18/the-draft-dodgers-of-ukraine-russia-putin>.

¹²⁸ Information available to UNHCR via protection monitoring.

¹²⁹ From 1 July 2014 to 1 July 2015, there were 661 criminal cases recorded against draft and mobilization evaders; decisions available at <http://www.reyestr.court.gov.ua>. Although the penalty for draft or mobilization evasion is two to five years, in most cases sentences were suspended subject to a one or two year probationary period (and hence individuals convicted of draft or mobilization evasion did not serve the full length of their sentence). As of 17 April 2015, over 3,000 criminal cases had been opened against already recruited military personnel charged with desertion, unauthorized absence from service and evasion. OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015.

¹³⁰ There are reports of government staff serving summons in public places in Kharkiv; involvement of traffic police in Lviv stopping cars and serving summons; visits by government staff to private enterprises in Kyiv, with pressure being exerted on management to force employees to report to conscription offices. See Komsomolskaya Pravda in Ukraine, *В погоне за планом: на какие уловки идут военкомы, отлавливая призывников*, 15 June 2015, <http://kp.ua/politics/503192-v-pohone-za-planom-na-kakye-ulovky-idut-voenkomy-otlavliвая-prizyvnykov>. The first wave of partial mobilization in 2015 started in January and lasted for 90 days; the second wave started in April and lasted for 60 days. The third wave started on 19 June 2015 and lasted 60 days. According to information available to UNHCR these coercive measures have now reportedly been discontinued.

¹³¹ Information obtained by UNHCR through assessments in NGCAs.

¹³² OSCE, *Thematic Report: Impact of the Crisis in Ukraine on its Western Regions*, 30 March 2015, <http://www.osce.org/ukraine-smm/148241>.

difficulties in receiving support from host communities, renting property and finding employment.¹³³

36. Ukraine's legal framework on regular conscription provides for conscientious objection and alternative service on religious grounds for members of religious organizations registered in Ukraine, subject to possible limitations in times of civil or military emergency.¹³⁴ However, there is no clear provision on alternative service arrangements for individuals drafted through emergency mobilization,¹³⁵ creating risks of enlistment contrary to a person's religious beliefs. The religious beliefs of conscientious objectors summoned in the course of the waves of emergency mobilization in the context of the current conflict are reportedly often ignored by conscription offices.¹³⁶
37. Ukraine's legislation regulating military mobilization procedures establishes a list of categories of persons entitled to exemption from being drafted into the armed forces during periods of emergency mobilization.¹³⁷ On 24 July 2015 the relevant legislation was amended,¹³⁸ with exemptions provided for full-time students and students pursuing post-graduate degrees, teaching and research staff at universities and scientific institutions who have post-graduate degrees, and teaching staff at other educational institutions such as high school teachers.
38. By the time of writing there had not been any reports of a general mobilization of men in the NGCAs. However, in mid-August 2015 members of the local population (mainly men with former military backgrounds) started to receive notices with requests to attend the military commissariat for registration only.¹³⁹ According to information obtained through monitoring in NGCAs, the mobilization is currently on a voluntary basis. Concerns have been expressed about reports of children performing military duties in NGCAs, including guarding checkpoints.¹⁴⁰ In the LPR young men under the age of 18 have reportedly joined the military because they saw it as the only means to obtain an income.¹⁴¹

Participation in local elections

39. IDPs are eligible to vote in national elections. However, in July 2015 Parliament passed Law No. 1706-VII,¹⁴² which limits IDP participation in local elections scheduled for 25 October

¹³³ UNHCR, *Participatory Assessments Conducted by UNHCR and Partners in Dnipropetrovsk, Zaporizhia, Severodonetsk and Kharkiv*, April-May 2015, http://unhcr.org.ua/en/?option=com_content&view=article&layout=edit&id=1526.

¹³⁴ Law No. 1975-XII of 12 December 1991 *On Alternative (Non-Military) Service*, Articles 1 and 2, available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/1975-12>.

¹³⁵ Law No. 3543-XII of 21 October 1993 *On Mobilizational Preparedness and Mobilization*, available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/3543-12>.

¹³⁶ The Institute of Religious Freedom reports vastly differing approaches to alternative service arrangements across the country, many of which are highly restrictive and entail criminal prosecution of conscientious objectors as draft evaders. Institute of Religious Freedom, *Alternative (Non-Military Service): Path of Reforms or Verdicts*, 10 September 2015, http://www.irs.in.ua/index.php?option=com_content&view=article&id=1596%3A1&catid=37%3AArt&Itemid=64&lang=ru. The applicability of alternative service arrangements for conscientious objectors on religious grounds drafted through emergency mobilization was affirmed on 23 June 2015 by Ukraine's High Specialized Court for Civil and Criminal Cases (decision available in Ukrainian at <http://reyestr.court.gov.ua/Review/45855629>), which referred to the Constitution of Ukraine and relevant jurisprudence of the European Court of Human Rights, and determined that "lack of procedures for alternative service in time of mobilization cannot be a ground for criminal prosecution of conscientious objectors as draft evaders" and that "criminal prosecution of an individual for observance of his/her religious beliefs by objecting to being enrolled in military service is contrary to Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms."

¹³⁷ Law No. 3543-XII of 21 October 1993 *On Mobilizational Preparedness and Mobilization* envisages exemption of the following groups of people from being drafted into the military during mobilization: employees of State authorities; local self-governance bodies; enterprises, institutions and organizations blocked for the mobilization period; persons recognized as unfit to serve due to health condition subject to certification every six months; caregivers to three and more children below 18 years old; single parents of children below the age of 18 years; caregivers of children with severe disabilities; legal guardians and foster parents of orphans or children deprived of parental care; caregivers to spouses or parents in severe medical condition; and parliamentarians.

¹³⁸ Law No. 570-VIII of 24 July 2015, available in Ukrainian at <http://zakon2.rada.gov.ua/laws/show/570-19>.

¹³⁹ Information obtained by UNHCR through monitoring in NGCA.

¹⁴⁰ OSCE Special Monitoring Mission to Ukraine, *Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on Information Received as of 19:30 (Kyiv time), 28 May 2015*, 29 May 2015, <http://www.osce.org/ukraine-smm/160931>.

¹⁴¹ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 August 2015, para 92.

¹⁴² Law No. 2831-3 of 14 July 2014 *On Local Elections*, available in Ukrainian at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55377.

2015.¹⁴³ According to this law, a person needs to be a permanent resident in the relevant constituency in order to exercise the right to vote. As most IDPs have not yet been able to establish themselves as permanent residents in the constituencies where they now live, they are effectively disenfranchised. Independent analysts have criticized this law for being contrary to the Constitution and laws of Ukraine, as it may impede IDPs' involvement in the governance of host communities.¹⁴⁴ IDPs have themselves expressed frustration with their non-participation.¹⁴⁵

Nationals and Habitual Residents of Ukraine who seek international protection - Individual Asylum and Refugee Status Determination Procedures

40. All claims of persons from Ukraine applying for international protection should be processed in fair and efficient procedures in accordance with existing asylum or refugee status determination frameworks.¹⁴⁶ For some individuals whose claim had been rejected prior to the current events, the situation now may give rise to changed circumstances, which need to be considered if a new asylum claim is submitted. Claims for international protection made by persons having been involved in recent developments, including, for example, political and religious activists, journalists, members of minorities, and human rights defenders may need to be given particular attention. Some Ukrainians also put forth claims for international protection relating to a fear of being conscripted into the armed forces.¹⁴⁷ Persons with relevant profiles may be in need of international protection in accordance with the 1951 Convention for reason of (imputed) political opinion or for reasons related to other 1951 Convention grounds.
41. All claims should be considered on an individual basis, taking into account the particular circumstances of each case. There may be persons who have been associated with excludable acts in the sense of Article 1F of the 1951 Convention.¹⁴⁸ In such cases, it will be necessary to examine carefully any issues of individual responsibility for crimes which may give rise to exclusion from international refugee protection.

Internal Flight or Relocation Alternative

42. An analysis of the possible application of an internal flight or relocation alternative (IFA/IRA) requires an assessment of the "relevance" as well as the "reasonableness" of the

¹⁴³ Parliament of Ukraine, Resolution No. 645-VIII of 17 July 2015 *On Setting Scheduled Elections of Deputies of Local Councils and Village, Town and City Mayors in 2015*, available in Ukrainian at <http://zakon4.rada.gov.ua/laws/show/645-19>.

¹⁴⁴ Informator.Ig.ua, *New Law for IDPs: With a Stamp but Without a Vote*, 29 July 2015, <http://informator.ig.ua/?p=108611>. On 12 August 2015, an amendment to this law was registered with Parliament. This amendment provides for IDPs to be included in the electoral list and to allow them to vote in local elections. Text available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=56262.

¹⁴⁵ Information obtained by UNHCR through monitoring and participatory assessments.

¹⁴⁶ Applicable frameworks include that of the *Convention relating to the Status of Refugees*, 28 July 1951, United Nations Treaty Series, vol. 189, p. 137, <http://www.refworld.org/docid/3be01b964.html> and its *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, <http://www.refworld.org/docid/3ae6b3ae4.html>; and the EU Qualification Directive relating to refugees or persons in need of subsidiary protection (European Union, *Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 13 December 2011, <http://www.refworld.org/docid/4f06fa5e2.html>). In the event that asylum-seekers from Ukraine seek international protection in other parts of the world, other regional frameworks would apply, including the 1969 OAU Convention (*Convention Governing the Specific Aspects of Refugee Problems in Africa*, 10 September 1969, 1001 United Nations Treaty Series, vol. 1001, p. 45, <http://www.unhcr.org/refworld/docid/3ae6b36018.html>), and the Cartagena Declaration (*Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, <http://www.refworld.org/docid/3ae6b36ec.html>). Although the Cartagena Declaration (unlike the OAU Convention) is included in a non-binding regional instrument, the Cartagena refugee definition has attained a particular standing in the region, not least through its incorporation into 14 national laws and State practice.

¹⁴⁷ For the adjudication of such claims, see UNHCR, *Guidelines on International Protection No. 10: Claims to Refugee Status Related to Military Service within the Context of Article 1A (2) of the 1951 Convention and/or the 1967 Protocol Relating to the Status of Refugees*, 3 December 2013, HCR/GIP/13/10/Corr. 1, <http://www.refworld.org/docid/529ee33b4.html>.

¹⁴⁸ UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees*, 4 September 2003, CR/GIP/03/05, <http://www.unhcr.org/refworld/docid/3f5857684.html>.

proposed IFA/IRA.¹⁴⁹ In the current circumstances in Ukraine, an IFA/IRA may be relevant for individuals in areas of the country not affected by recent events.¹⁵⁰

43. If an IFA/IRA is deemed relevant, it must be determined, on a case-by-case basis, whether an IFA/IRA is “reasonable”, taking into account the personal circumstances of the applicant.¹⁵¹ A number of factors need to be considered in order to evaluate whether the individual would be able to live a relatively normal life without undue hardship in the area of relocation, given his or her situation. These include the safety and security situation in the proposed area of relocation, respect for human rights in that area, and the possibilities for economic survival.¹⁵² For reasons related to the observations made in the preceding sections, for some persons, depending on the individual circumstances of the case, the “reasonableness” criteria may not be met.
44. Factors to be considered in assessing the reasonableness of a proposed IFA/IRA include the fact that the person concerned would likely end up in an IDP-like situation. To assess the reasonableness of such an outcome, the following considerations need to be taken into account, as well as their cumulative effect on the individual concerned.

a) Access to livelihoods

45. While the government has put limited assistance programmes in place, as noted above, the scope and scale of these assistance programmes is insufficient to meet the needs of many individuals and families, including in particular persons who have specific needs for reason of their age, gender, health or disability. A sharp rise in food and utility prices, coupled with limited access to employment is posing further challenges for IDPs.¹⁵³ Even healthy and able-bodied IDPs may not succeed in providing for their own essentials needs as well as those of their family, due to reported discrimination against IDPs on the labour market, as well as exploitation of IDPs by certain employers.¹⁵⁴

b) Access to accommodation

46. A saturated housing market, lack of government-provided housing and an increase in rental prices in many areas hosting IDPs has led to a shortage of accommodation options for IDPs. Some of the available accommodation is in very poor condition and is often wholly inadequate for winter conditions. The financial assistance provided by the government is reportedly insufficient to cover rising rental prices, and is also only provided for a limited period of time.¹⁵⁵

c) Access to healthcare

¹⁴⁹ The decision-maker bears the burden of proof of establishing that an analysis of relocation is relevant to the particular case. If considered relevant, it is up to the party asserting this to identify the proposed area of relocation and provide evidence establishing that it is a reasonable alternative for the individual concerned. See UNHCR, *Guidelines on International Protection No. 4: Internal Flight or Relocation Alternative* within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees, HCR/GIP/03/04, 23 July 2003, <http://www.refworld.org/pdfid/3f2791a44.pdf>, paras. 33-35. UNHCR considers that a similar analysis would apply when the applicability of an IFA is considered in the context of determining eligibility for subsidiary protection.

¹⁵⁰ For an IFA/IRA to be relevant, the proposed area of relocation must be practically, safely and legally accessible. Further, where the claimant has a well-founded fear of persecution at the hands of the State and its agents, there is a presumption that consideration of an IFA/IRA is not relevant for areas under the control of the State. If the applicant fears persecution by a non-State agent of persecution, the ability to pursue the claimant in the proposed area and the State’s ability to provide protection there must be considered: UNHCR, *Guidelines on International Protection No. 4*, paras 9-21.

¹⁵¹ UNHCR, *Guidelines on International Protection No. 4*, paras 25-26.

¹⁵² *Ibid*, paras 24, 27-30.

¹⁵³ Radio Free Europe/Radio Liberty, *Live Blog: Ukraine in Crisis*, 16 July, 2015, <http://www.rferl.org/content/live/liveblog/26805126.html>; see also WFP, *Market Update on Ukraine*, April – May 2015, <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp276287.pdf>.

¹⁵⁴ As reported to UNHCR and partners. Even when IDPs are able to find work, they report being paid lower wages than others in the host community, as employers are aware of their desperate financial situation.

¹⁵⁵ IRIN, *Displaced Ukrainians Face Housing Crises*, 22 June 2015, <http://www.irinnews.org/report/101659/displaced-ukrainians-face-housing-crisis>.

47. IDPs with medical needs face particular difficulties. Pensioners who may have been entitled to medication at subsidized prices are often not able to access this in their location of displacement, as the healthcare budget of local authorities does not provide for IDPs, thus making essential medicines unaffordable.¹⁵⁶ Given the shortage of drugs in Ukraine for patients with HIV or drug-resistant tuberculosis, individuals affected by these conditions may not be able to access life-saving medication.¹⁵⁷ Furthermore, specialized medical or psychological services for survivors of torture, violence and trauma are generally not accessible because of high cost and limited availability.¹⁵⁸

d) Access to other essential services

48. IDP registration excludes certain groups, such as those lacking the required identity documents (including Roma). These unregistered displaced individuals cannot access government funded financial assistance nor government services.

e) Obstacles to integration

49. Discrimination and the country's deteriorating economic conditions have contributed to difficulty for IDPs in establishing themselves in the area of displacement.¹⁵⁹ Lack of family or community support further compounds this difficulty. There is some host community resentment against IDPs for a number of reasons, including the fact that IDPs are perceived to have pro-Russian political allegiances. Competition for scarce resources, such as jobs and accommodation, as well as a perception that IDPs are entitled to assistance not granted to other Ukrainians, who may also be facing economic hardship, has contributed to further stigmatization and discrimination in the rental and employment market.¹⁶⁰

50. In light of the information provided in the preceding sections, UNHCR considers that particular attention must be paid to the individual characteristics of the following groups of persons in assessing the reasonableness of a proposed IFA/IRA:

- a) Women* (see in particular paras 25-26);
- b) Children* (see in particular paras 27-29);
- c) Persons living with disabilities* (see in particular paras 7, 21, 23-24, 45);
- d) Roma* (see in particular para. 30);
- e) Persons of diverse sexual orientations and gender identities* (see in particular para. 32);
- f) Men of conscription age and their families* (see in particular paras 34-38).

Sur Place claims by Nationals and Habitual Residents of Ukraine

¹⁵⁶ As reported to UNHCR during participatory assessments, http://unhcr.org/ua/en/?option=com_content&view=article&layout=edit&id=1526.

¹⁵⁷ Al-Jazeera America, *War in Ukraine Threatens to Worsen HIV Crisis*, 26 January 2015, <http://america.aljazeera.com/articles/2015/1/26/war-in-ukraine-threatens-to-worsen-hiv-crisis.html>; information available to UNHCR via protection monitoring and inter-cluster communication; see also AFP, *Ukraine Faces Looming HIV Treatment Shortage*, 27 May 2015, <http://reliefweb.int/report/ukraine/ukraine-faces-looming-hiv-treatment-shortage>; UPI, *UN Envoy Reports 8000 HIV-AIDS Patients at Risk in Eastern Ukraine Due to Blockade*, 20 July 2015, http://www.upi.com/Top_News/World-News/2015/07/20/UN-envoy-reports-8000-HIV-AIDS-patients-at-risk-in-eastern-Ukraine-due-to-blockade/4951437410052/.

¹⁵⁸ OCHA, *Ukraine Situation Report No. 27, 13 February 2015*, https://www.humanitarianresponse.info/system/files/documents/files/UKRAINE_SituationReport_130215.pdf; see also WHO, *WHO Increases Humanitarian Efforts as Crisis in Ukraine Continues*, 17 February 2015, <http://reliefweb.int/report/ukraine/who-increases-humanitarian-efforts-crisis-ukraine-continues>.

¹⁵⁹ OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 May 2015.

¹⁶⁰ Internews Europe, *Understanding Information and Communication Needs Among IDPs in Eastern Ukraine: Trapped in Propaganda War. Abandoned. Frustrated. Stigmatized.*, February 2015, http://www.internews.org/sites/default/files/resources/Internews_IDPS_EasternUkraine_2015-02-11.pdf.

51. The number of *sur place* asylum applications by Ukrainian nationals has remained stable in several countries, including several EU member States and the Russian Federation.¹⁶¹ At the same time it is recognized that since many Ukrainians (or former habitual residents of Ukraine) benefit from other residency statuses or visas, related to, for example, studies or work, granted before the escalation of unrest and violence in Ukraine, or benefit from the visa-free regime in the Russian Federation,¹⁶² there is a potential for a further increase in *sur place* claims. Against this background, UNHCR recommends, where possible and appropriate, to have these statuses/visas extended for as long as necessary. Persons benefiting from such arrangements would of course not be prevented from applying for asylum, if they wish to do so.

Designation of Ukraine as Safe Country of Origin

52. In the current circumstances, UNHCR does not consider a designation of Ukraine as a “safe country of origin” to be appropriate. States should remove Ukraine from “safe country of origin” lists. UNHCR accordingly calls on governments not to apply accelerated procedures with reduced procedural safeguards (including non-suspensive appeals) to applications for international protection by Ukrainian nationals or habitual residents of Ukraine; and not to subject these persons to different reception conditions than other applicants for international protection.

Refugees and Asylum-Seekers (Third Country Nationals)

53. Third country nationals may also choose or be compelled to leave Ukraine as a result of developments related to the conflict. Among these persons, there may be those who were recognized as refugees, granted complementary protection or registered as asylum-seekers in Ukraine. Afghan and Syrian nationals are among the largest groups of asylum-seekers and refugees in Ukraine.¹⁶³ Ukraine has been and remains a transit and destination country for refugees and people otherwise in need of international protection from third countries. If travelling onwards, these persons should be referred to national asylum procedures for consideration of their applications for international protection. In addition, there may be third country nationals or stateless persons who resided in Ukraine before seeking international protection elsewhere and who had not or not yet applied for international protection in Ukraine. UNHCR recommends that these persons also be referred to the national asylum procedure in the country where they seek international protection.

Designation of Ukraine as Safe Third Country

54. UNHCR does not consider it appropriate for States to designate or maintain a designation of Ukraine as a so-called “safe third country”. The designation of a country as a “safe third country” may result in a request for international protection not being considered on its merits but declared inadmissible, or processed in an accelerated procedure with reduced procedural safeguards. Even before the current unrest, UNHCR considered that Ukraine should not be considered as a safe third country, on account of identified shortcomings in the national asylum system.¹⁶⁴ UNHCR requests States to consider asylum applications from third country

¹⁶¹ Information available to UNHCR.

¹⁶² For example, according to the Federal Migration Service of the Russian Federation, as of July 2015, Ukrainian nationals can extend their stay in the Russian Federation for an additional 90 days, based on visa-free regime regulations: see http://www.fms.gov.ru/press/news/news_detail.php?ID=152773. According to the Human Rights and Civil Society Council of the Russian Federation President’s Office, this decision was taken because many Ukrainians who left the Donetsk and Luhansk regions of Ukraine have not yet been able to regularize their stay through extended legal status. The Council recommends these Ukrainian nationals to apply for temporary asylum, which would entitle them to a one-year stay and work permit in the Russian Federation: see <http://president-sovet.ru/presscenter/news/read/2611/>.

¹⁶³ See UNHCR, *Asylum Trends 2014: Levels and Trends in Industrialized Countries*, <http://www.unhcr.org/551128679.html>, <http://unhcr.org/54aa91d89.html>, and its annexes (Excel tables) at <http://www.unhcr.org/statistics/2014AsylumTrends.zip> and <http://www.unhcr.org/statistics/mid2014stats.zip>. Detailed updated statistics available to UNHCR.

¹⁶⁴ UNHCR, *Ukraine as a Country of Asylum. Observations on the Situation of Asylum-Seekers and Refugees in Ukraine*, July 2013, <http://www.refworld.org/docid/51ee97344.html>.

nationals who previously resided in or transited through Ukraine in fair and efficient procedures with the full range of procedural guarantees in place.

Third Country Nationals and the Use of Readmission agreements

55. UNHCR would, in the current circumstances, advise caution regarding the return of third country nationals to Ukraine in accordance with the terms of bilateral or regional readmission agreements. Readmission agreements usually exclude, in principle, asylum-seekers or persons in need of international protection from their scope. However, where such agreements are applied to third country nationals in combination with a “safe third country” designation, their application can result in individuals being sent back to Ukraine who have not had an opportunity to submit a claim for international protection or who have not had such a claim reviewed on its merits in a fair procedure.

Updating and review

56. UNHCR’s position will be reviewed as the situation evolves and will be updated as necessary.

UNHCR
September 2015