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The humanitarian situation of Ukrainian refugees and displaced persons

Addendum to the report¹

Committee on Migration, Refugees and Displaced Persons

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1. Introduction

1. In the context of my report, I visited Kyiv and Kharkiv in Ukraine from 16 to 19 November and Moscow and Rostov-on-Don in the Russian Federation from 8 to 10 December 2014. At its meeting in Bucharest, Romania (27-28 November 2014), the Committee on Migration, Refugees and Displaced Persons agreed to my presenting, during the January 2015 part-session, an addendum, containing my observations on the two visits, to the report it adopted on that occasion. I take this opportunity to express my thanks respectively to the delegations of Ukraine and the Russian Federation for their assistance in preparing the visits, as well as to all those whom I met during them.

2. Ukraine visit

2. The majority of people displaced by the conflict in eastern Ukraine, and by the Russian annexation of Crimea, are still in Ukraine itself. This number continues to grow: at the time of my visit, the State Emergency Service had registered 454 456 internally displaced persons (IDPs); at the time of writing (mid-December), this figure had reached 542 080. It is, however, generally accepted that the actual number of IDPs is at least two to three times greater than this. There is no legal obligation for IDPs to register unless they require social assistance, and I was told that some IDPs did not register for fear that information on their situation could subsequently leak back to their home region. On the other hand, it has been suggested that new procedures (see below) may have encouraged an increase in registrations. It is estimated that 3.5 to 4 million people still remain in the separatist-controlled areas. I was consistently told that the IDPs' strongest wish is for the fighting to stop and to be able to return to their homes.

3. The authorities in Kharkiv provided information that illustrates the IDPs' impact. Over 130 000 IDPs from Donetsk and Luhansk had registered on arrival in the Kharkiv region. Of these, 35 000 required medical assistance, including over 1 000 with serious diseases such as cancer, over 100 HIV+, over 150 with tuberculosis, about 300 diabetics and 33 people needing daily dialysis. There had been more than 1 500 pregnant women amongst the newly arriving IDPs, leading to over 700 births (by mid-November), 100 of which had involved complications. This medical assistance had cost 27 million UAH (around US\$ 1.74 million²) so far, with another 7 million UAH were expected by the end of 2014. As regards education, the presence of school-age IDP children had placed an additional burden on education budgets, which faced a 22 million UAH deficit. Similarly, enrolments by IDPs had led to an almost 10% increase in the number of students at Kharkiv

1. Addendum approved by the committee on 26 January 2015. Reference to committee: [Doc. 13550](#), Reference 4055 of 27 June 2014.

2. At the time of my visit, the US dollar – UAH exchange rate was around 1:15.5 (it has since risen slightly).

University. Such budgetary burdens had not been foreseen, leading to competition for resources: in effect, less would be spent on Kharkiv residents, and some programmes would be undermined; the authorities hoped that the shortfalls would be made up by central government or the international community.

4. The representatives of international organisations and non-governmental organisations (NGOs) that I met in Ukraine agreed that the contribution of the general population and civil society had been of crucial importance in meeting the immediate needs of IDPs, especially during the most extreme phase of population displacement that followed the acute deterioration in the security situation from June 2014 onwards. Many of these interlocutors considered that the national authorities had at least until recently failed to grasp the scope of the problem, or to respond adequately to it. The government pointed out that Ukraine had no experience in confronting a humanitarian crisis of this type, which had been completely unexpected and not of its own making; specialist organs such as the State Emergency Service, despite their best efforts, were unprepared and had insufficient resources. The Office of the United Nations High Commissioner for Refugees (UNHCR) and local NGOs told me of bureaucratic obstacles to their activities. International organisations suggested that the generosity of the population and the resources of civil society organisations may be approaching exhaustion. More generally, it was suggested that Ukraine's long-standing problems of poor governance, especially corruption, risk being exacerbated by the situation in the east of the country and the IDP crisis, which in turn cannot be properly resolved without reforms to resolve those problems.

5. It was widely asserted that Ukraine's legal framework for IDPs remains insufficient. Although President Poroshenko signed the new IDP law into force immediately after my visit, there is still a need for proper implementation, including (as was mentioned, for example, by the Office of the Parliamentary Commissioner for Human Rights) on issues such as housing, business activity and employment. One problem may be inconsistencies between implementing instruments and the IDP law itself, for example on such basic issues as the definition of an IDP.³ The UNHCR told me that there were differing interpretations of the legal framework by local authorities. A new IDP registration system, under the responsibility of the Ministry of Social Policy (registration had previously been conducted by the State Emergency Service), had been established by Cabinet of Ministers' Resolution No. 509 of 1 October 2014. Nevertheless, several interlocutors spoke of a need to improve co-ordination between public authorities, notably the State Emergency Service and the Ministry of Social Policy. The government informed me that a new agency would be created to take over lead responsibility for IDPs as well as for restoration of the Donbas; these two issues would be addressed by separate branches of the new service, each with equally sufficient capacity. I was left with the overall impression that there was a lack of clarity, especially in the practical details.

6. The Office of the Parliamentary Commissioner for Human Rights stated that the most urgent issue for IDPs was housing: this issue was not yet covered by government regulation, so IDPs were placed on waiting lists for public housing with the same priority as other people. Whilst most IDPs were accommodated in various forms of private housing, I was told by the UNHCR that some 10% were still in collective centres not yet made suitable for winter. Additional provision was being made, including in the form of prefabricated housing, but this was made available only for one month, following which the IDPs were required, with the authorities' assistance, to find alternative housing. The authorities in Kharkiv told me that all IDPs there had been resettled in accommodation suitable for winter. Despite this, I visited the privately owned "Romashka" collective centre on the outskirts of Kharkiv, whose owners said that they were inundated by requests by IDPs for accommodation, even though the centre was not yet adapted to winter, for example lacking central heating.

7. A concern particularly amongst representatives of international organisations and NGOs was the socio-economic impact of IDPs. It was felt that Ukraine was rapidly approaching its absorption capacity, with a certain fatigue on the part of local authorities and populations and growing dissatisfaction on the part of IDPs leading to divisions. Many interlocutors spoke of discrimination against IDPs in the housing and labour markets, possibly based on a sort of "imputed political opinion" of pro-Russian sympathies, although I was also told that discrimination was most acute against Roma IDPs. It was widely suggested that such discrimination could lead to radicalisation of IDPs, and that there was an increasingly urgent need for reconciliation measures to increase trust and confidence. There seemed to be a lack of planning for possible long-term displacement. The government told me that its aim until now had been to avoid concentrations of IDPs and to facilitate their adaptation and integration in normal conditions, but more money was needed to ensure provision of housing and basic needs. Representatives of the Kharkiv authorities were asking where IDPs would live in the long

3. The IDP Law limits the scope to citizens of Ukraine, whereas Cabinet of Ministers' Resolutions Nos. 505 and 509, for example, include "foreigners and stateless persons permanently residing on the territory of Ukraine".

term: even in the liberated areas, or elsewhere should peace be restored, those whose homes had been destroyed had nowhere to go – how would these homes, and other destroyed buildings and infrastructure be rebuilt; where would the money come from?

8. I was alarmed by certain measures taken by the central government to isolate the populations of the separatist-controlled areas. Presidential Decree No. 875/2014 (4 November 2014) required the closure of state enterprises, institutions and organisations on, and the evacuation of their employees and removal of property and documentation from separatist-controlled areas. I was told that as a result of this decree, for example, institutions for disabled children in separatist-controlled areas were without money to pay their staff or bills; yet nothing had been done to remove the children from these institutions. The decree also called for transfer of prisoners and prison staff from separatist- to government-controlled areas. Despite this, I heard that thousands of convicted prisoners were still detained in prisons on separatist-controlled territory that were no longer properly staffed and were short of essential supplies, even of food. This is of particular concern given the already poor conditions in Ukrainian prisons, as described notably by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Another effect of the decree has been the closure of banking services in the separatist-controlled areas, meaning that ATMs no longer function and people cannot access their accounts. Furthermore, Cabinet of Ministers' Resolution No. 595 of 7 November 2014 has halted pension and other social welfare payments to people in separatist-controlled areas. As a result, those unwilling or unable to relocate to government-controlled areas were left entirely without means. The government stated that it was almost impossible to transfer money or make payments to people living in the separatist-controlled areas, and that funds transferred had been stolen and misappropriated by separatists and criminals. Given the conditions being faced by those still living in the separatist-controlled areas (see below), I consider that whatever the reasons for these measures, their effects are completely indiscriminate and will in many cases be devastatingly disproportionate, especially for the most vulnerable. They are also likely to undermine continuing support for national unity amongst these populations and others.

3. Russian Federation visit

9. It is difficult to ascertain the actual number of Ukrainians who have fled to Russia as a result of the fighting in eastern Ukraine. Figures of 800 000–1 000 000, often quoted by Russian politicians and media, are disputed by international organisations and NGOs, who suggest that such figures misleadingly relate to the total number of crossings of the Ukraine–Russia border in 2014. What can be said with certainty is that in early December 2014, the Russian Federal Migration Service had recorded 237 131 Ukrainian asylum applicants in the Russian Federation since the beginning of 2014, with a further 228 590 having sought to stay in the country on some other basis. It should be noted that Ukrainians may now obtain temporary visas valid for nine months, and need not register with the authorities until the expiration of that period. Once such visas expire, therefore, there may be an increase in the number of applications for asylum or other status by those unable or unwilling to return to Ukraine. More accurate figures are not available from alternative sources, as (for example) the UNHCR has not been asked to assist with meeting the protection needs of refugees and displaced persons, and so has not published estimates of how many of them there are.

10. The largest number of Ukrainian refugees and displaced persons is in the Rostov region bordering Ukraine. I was told by the Russian Red Cross that on 8 December, there were 39 070 such persons in the region, including 11 562 children and 372 disabled people; of which 1 344 resided in temporary accommodation centres, the others staying with friends and relatives, host families etc. The number of refugees and displaced persons in temporary accommodation centres had been declining until early December, when it began to increase again as some of those who had previously returned to Ukraine had been unable to remain there and had come back to Russia.

11. The Russian authorities have made remarkable efforts to respond to the influx of refugees and displaced persons that arrived from summer onwards, whilst choosing not to call for assistance from international organisations such as the UNHCR; although this latter, along with others such as the International Committee of the Red Cross (ICRC), does monitor the situation. Legal measures were rapidly adopted, administrative procedures (for example for status recognition) were accelerated and assistance, including medical care and schooling, provided to a level even exceeding international standards (for example three hot meals a day in temporary accommodation centres). The Russian Red Cross,⁴ which was involved from the outset, raised 76 million RUB (around US\$ 1.4 million⁵) from public donations; most of that has now been spent, notably on

4. A national body, associated but not to be confused with the International Committee of the Red Cross or the International Red Cross or Red Crescent Movement.

food, clothes and medical supplies. The Russian Red Cross works in close co-operation with the Russian authorities, whose actions are in certain circumstances circumscribed due to the refugees and displaced persons not being Russian citizens: for example, it was able to provide preferential treatment to disabled people, which the Russian authorities were precluded from doing.

12. The Russian authorities' policy is to limit concentrations of refugees and displaced persons in the regions bordering Ukraine, which in the case of Rostov quite quickly reached the limits of its capacity (a state of emergency was declared in June). Once registered, new arrivals are informed of suitable employment opportunities in other regions, where they may also receive assistance with accommodation; for instance, the Donbas is a coal-mining area, so many refugees and IDPs with relevant skills have relocated to jobs in Siberia. I was assured that such transfers were voluntary and, indeed, informed that some people had returned to the Rostov region, either because they found the region to which they had relocated too inhospitable or to be closer to Ukraine and the possibility of returning home. With a few exceptions, including Moscow, St Petersburg and Chechnya,⁶ each region has a percentage quota of persons for resettlement. I heard accounts of Ukrainian refugees or displaced persons being prevented from moving to, for example, Moscow, despite having close family members already living there. Some flexibility should be allowed in application of this policy.

13. The UNHCR informed me that one consequence of the Russian authorities' redirection of resources towards Ukrainians seeking protection is that other groups in urgent need of protection, including Syrians, Iraqis and Afghans, have in effect been denied access to the asylum procedure. I also heard that Ukrainian refugees and displaced persons were far better treated by the Russian authorities than members of certain vulnerable groups of Russian citizens, such as the homeless. It may be that in the overall interests of humanitarian protection, there is a need for some rebalancing of resource allocation, so as to avoid unjustified discrimination.

4. Situation in areas of Ukraine not controlled by the Ukrainian authorities

14. The situation in and around the separatist-controlled areas of Ukraine was a matter of great concern in both Ukraine itself and Russia. I heard detailed information, notably from representatives of Memorial and Human Rights who had recently visited these areas, of serious violations of human rights and international humanitarian law, and of a "terrifying" humanitarian situation. Despite the September Minsk ceasefire, people have continued to be killed and injured.⁷ There has been indiscriminate shelling of residential areas by both sides, use of cluster ammunition, and the stationing, especially by separatist forces, of military personnel and equipment alongside residential buildings. I also heard reports of gender-based violence, including rapes; lack of food, water, gas and electricity, with reports of people dying of cold and hunger; inadequate accommodation, with people living in half-destroyed homes and cellars; a complete lack of rule of law, with no properly regulated police force, courts or detention facilities; widespread unemployment and non-payment of wages; lack of access to education, health care and care for the elderly, many of whom lived alone; problems of free movement, with forced payment of bribes, harassment and physical violence especially at checkpoints whether manned by separatists, voluntary battalions or regular armed forces; and so on. Perhaps most chillingly, I heard conditions in some places described, by people with first-hand experience of both, as comparable to those in Grozny during the Chechen wars. It is in some ways unfortunate that I could not visit these areas, as conditions there are by far the most extreme. I note that the Council of Europe Commissioner for Human Rights has released information on his recent visits to areas close to those controlled by the separatists and that the United Nations High Commissioner for Human Rights reports regularly on the situation, and look forward to the imminent Human Rights Watch/ Memorial report on the situation in the separatist-controlled areas.⁸

15. Although I did not visit Crimea, I would not want by omission to give the impression that the situation there does not remain a matter of great concern, as was underlined by many of my interlocutors in Ukraine. I would therefore recall the reports of, amongst others, the Commissioner for Human Rights, the Advisory Committee on National Minorities, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and Human Rights Watch, confirmed in my meeting with the Office of the Parliamentary

5. At the time of my visit, the US dollar – Russian ruble exchange rate was around 1:54 (it has since risen).

6. Ukrainian refugees and displaced persons are also prohibited from resettling in Russian-occupied Crimea.

7. Released shortly after my visit, the OHCHR's Eighth report stated that there had been at least 4 707 deaths and 10 322 injuries since April 2014, with at least 1 357 deaths since the September ceasefire.

8. I cannot help but recall that only two years ago, people from all across Europe were flying into the new Donetsk airport for the European football championships, symbolic of friendship and co-operation between nations; now it lies in ruins and has become a symbol of conflict and destruction.

Commissioner for Human Rights.⁹ All of these describe widespread violations committed notably against members of the Crimean Tatar community and its representative body, the Mejlis, as well as human rights defenders, political activists, journalists and other dissident voices. Tens of thousands, mainly Crimean Tatars, have fled the peninsula in fear to other parts of Ukraine. Around 20 000 have registered as IDPs, but NGOs whom I met suggested that the true figure may be three times as high and that it may rise significantly in 2015 once the transition period for receiving a Russian passport comes to an end. Although the Russian annexation of Crimea violates international law, the Russian authorities, through their *de facto* exercise of control, are legally responsible under the European Convention on Human Rights (ETS No. 5) for the protection of all those living there.

5. Final conclusions

16. In both Ukraine and the Russian Federation, almost everyone I spoke to was clear that IDPs, refugees and displaced persons wanted most of all an end to the conflict and the possibility of returning home. I therefore welcome the significant diminution in fighting since the renewed ceasefire that began on 9 December 2014, the so-called "Day of Silence". A complete, durable ceasefire and a peaceful political settlement to the crisis, based on respect for Ukraine's independence, sovereignty and territorial integrity, are fundamental to a permanent resolution of the humanitarian situation.

9. It should be noted that as a result of direct threats of violence against members of its staff, the Parliamentary Commissioner's office in Crimea has had to close.