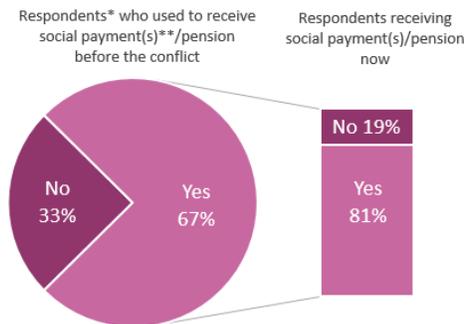


UPDATE ON IDP ACCESS TO SOCIAL BENEFITS AND PENSIONS

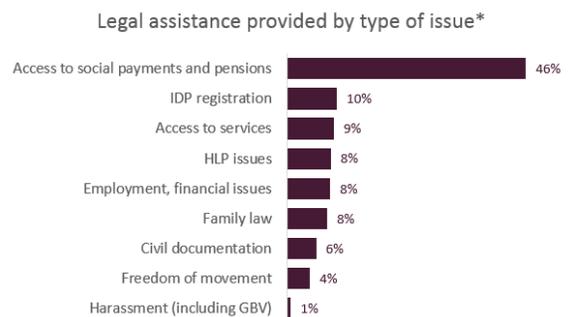


BACKGROUND

- In February 2016, the Government of Ukraine suspended social payments and pensions to some **500,000-600,000 IDPs in eastern Ukraine**, pending verification of their continued presence in the place of IDP registration. The suspended benefits included benefits paid to displaced persons under Cabinet of Ministers Resolution No. 505 as well as pensions and other types of social payments.
- Given that social benefits are received mostly by IDPs with specific needs, the **most severely affected are the most vulnerable**, including older persons, persons with large families, disabled persons and single mothers.
- In 2016 the Cabinet of Ministers adopted a number of Resolutions (365, 167, 964) laying out the **framework for access to social payments and pensions for IDPs** and outlining the procedure for suspension, verification and reinstatement. On 14 December, amendments were approved to Resolutions No. 365, 505, 509 and 167 aimed at simplifying procedures for IDP registration, allocation of social payments and the delivery of pensions to persons with disabilities.
- While these resolutions set out the criteria for suspension of payments and provided guidelines to the Departments of Social Protection (DoSP) on the procedure for residence verification, this has created a regime under which IDPs receiving social benefits or pensions– **are being subject to scrutiny and intrusion not applied to other Ukrainian citizens who receive the same benefits.**
- These changes are contrary to Ukrainian legal procedure, since payments of social benefits and pensions can only be regulated by Acts of Parliament and not by Cabinet of Ministers Resolutions. Administrative law, such as that governing social payments, is based on the principle that government action must be legal so that citizens are duly protected.
- The **residence verification** requirement introduced by these regulations places an extra burden on the local DoSP tasked with verifying the residence of IDPs **every six months**. DoSP staffing has not increased since the introduction of residence verification, leading to significant delays in verifying the IDP place of residence.
- Organizations providing legal assistance to IDPs highlight that **access to social payments and pensions remains the most frequent concern raised by IDPs**. That IDPs need legal assistance to access these payments shows that the established procedures are not clear.



Source: DRC Legal assistance needs assessment - January 2017
 * Out of a sample of 199 persons selected randomly, of which 26% were IDPs
 ** At least one type of social benefit



Source: Right to Protection
 *As per R2P's legal assistance programme report - January 2017.

KEY PROTECTION CONCERNS

- **The suspension of social payments and pensions for IDPs and need for subsequent verification is discriminatory** as only IDPs are exposed to the scrutiny of home visits every six months and the preemptive suspension of benefits pending repeated verification. Regularly highlighting that it is necessary to verify residence of IDPs hampers social cohesion and stigmatizes IDPs.
- The suspension of benefits prior to verification **violates basic principles of procedural fairness**. Benefits should only be suspended once fraud has been detected.
- Even when the verification is conducted promptly, IDPs **receive their payments one to two months after the application date** because the data from the application is submitted to the commission on appointment/reinstatement of social payments only once per month. Some IDPs wait up to **four months** until verification can take place, during which time they do not have access to social benefits or pensions.
- **Older people form a significant proportion of the population affected by the conflict**. In order to reinstate their pensions, older people have to queue for long hours at the Pension Fund.
- Social benefits and pensions are often the **only source of income** for IDPs, including single-headed households, pensioners and people with disabilities.¹ Suspension of payments puts IDPs at risk of eviction, homelessness, as well as **inability to meet basic needs** such as food and medicine.
- Inability to access social benefits and pensions has resulted in **documented cases of eviction due to non-payment of rent**. Persons interviewed at checkpoints have indicated that they have returned to Non-Government Controlled areas (NGCA) where they have accommodation, due to the inability to pay for housing and utilities in the Government Controlled Area (GCA).²
- Suspension of social benefits and pensions may also **lead to forced secondary displacement** as IDPs unable to meet their living costs are compelled to move to other regions of Ukraine where they hope to find cheaper accommodation or may have relatives with whom they can stay.

PROTECTION CONCERNS IN NON-GOVERNMENT CONTROLLED AREAS (NGCA)

- In November 2014, the Government of Ukraine suspended payment of social benefits and pensions to people living in NGCA. According to Cabinet of Ministers resolutions No. 637 and 595, persons living in NGCA may receive pensions and social payments only if they move to the GCA and register as IDPs.
- Linking pensions to IDP registration in this way may trigger internal displacement, which is prohibited by the Guiding Principles on Internal Displacement.
- It is also a violation of the right to property, which citizens of Ukraine have regardless of their place of residence.
- The need to travel to GCA and cross the contact line exposes people living in NGCA to safety risks and additional financial hardship.
- People who are immobile due to age or disability are not able to travel to the GCA and access their social benefits and pensions at all.
- While recognizing the challenges faced by the Ukrainian Government in organizing payments in the NGCA, every effort should be made to ensure that pensions and social assistance are accessible for all Ukrainians, including those residing in the NGCA.

RECOMMENDATIONS/KEY MESSAGES

- Displaced persons must have access to social services, benefits, pensions and bank services on an equal basis with other citizens of Ukraine. The Government of Ukraine should not introduce additional verification mechanisms for payment of pensions and social benefits to IDPs that are not established by law for citizens of Ukraine who have not been displaced.
- Any system of verification and fraud prevention needs to include safeguards based on national and international human rights standards. In case of suspected fraud, verification must be conducted before suspension of payments.
- The Government of Ukraine should de-link pensions– which are an acquired right of all citizens who meet certain eligibility requirements and are in no way linked to displacement – from the additional requirement of registering as an IDP and establishing residence in GCA. This additional requirement is discriminatory. The Government should implement the Supreme Administrative Court decision of October 16, 2015, which held that the Government's suspension of pensions for citizens residing in NGCA is unlawful.
- The Government of Ukraine should consult with civil society, including IDPs themselves, when taking decisions that will affect them.

¹ According to a 2016 REACH Inter-Agency Vulnerability Assessment, 38% of IDPs depend on social benefits and pensions as the primary source of income. Many IDP households have no secondary (37%) or tertiary (63%) income sources.

² "Many IDPs, especially those who rely on social support as their primary source of income had indicated that they would be forced to return to the territories controlled by armed groups due to suspension of benefits and increased utility prices in 2016", OHCHR report, August-November 2016.