# Ukrainian Helsinki Human Rights Union

### Shadow Report to the VII Periodic Report of Ukraine on the implementation of the International Covenant on Economic, Social and Cultural Rights

The Ukrainian Helsinki Human Rights Union (UHHRU) is the largest association of human rights organizations in Ukraine, which unites 27 human rights NGOs. The Union contributes to the development of a humane society based on respect for human life, dignity and harmonious relationship between man, nature and the state through the creation of a platform for cooperation between members of the Union and the other members of the human rights movement.

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Question 1[[1]](#footnote-1)

Host communities are trying to create conditions for facilitating their adaptation and integration. Thus, a survey conducted in twenty cities shows that “healthcare for IDPs gets funding in 8 cities, jobs are being created in 15 cities. 17 cities put effort into establishing intercultural dialogue. 13 cities have IDP integration as programs or items in these programs, yet only 1 city had a report on integration, while qualitative and quantitative performance indicators were used for the programs in only 6 cities. Local authorities in 6 cities have a public position on IDPs. Only 2 cities have advisory bodies which include IDP associations, NGOs, donors and business. Local authorities are working with NGOs, IDP associations and donors to create new opportunities for IDPs and to inform them about it in 15 cities.”[[2]](#footnote-2)

Activities on ensuring the observance of IDPs’ rights are included in local anti-poverty programs, as evidenced by the local social policy on combating poverty in the cities of Sumy, Dnipro (oblast centers that host a large number of IDPs), Kramatorsk and Mariupol (Donetsk Oblast). At the same time, a large number of community-level social programs provide only for a limited number of measures aimed at supporting IDPs, and these are not included in the general local anti-poverty policy. Thus, local social programs in 5 Donetsk Oblast cities and 2 oblast centers may contain measures on providing targeted aid to IDPs, which is a positive thing. However, the same programs fail to take IDPs into account when proposing such measures as preferential rates of utilities or free medicines for certain categories of the population, since IDPs are unable to benefit from this because it requires having one’s registered place of residence in the appropriate community[[3]](#footnote-3).

Unfortunately, activities of certain local anti-poverty programs are only aimed at specific categories of IDPs. Thus, the Dobropillya City Social and Economic Development Program for 2018 and Main Areas of City Development for 2020-2021 allocates UAH 400 thousand from the city budget for providing financial assistance to IDPs in a difficult situation (to those officially recognized as persons with disabilities)[[4]](#footnote-4).

Question 2[[5]](#footnote-5)

Right now it is difficult to evaluate implementation of measures aimed at improving IDPs’ employment situation, which is included in the Action Plan for the Implementation of the Strategy for Integration of IDPs and Implementation of Long-Term Internal Displacement Solutions 2020. It is clear, however, that the strategic priorities concerning employment do not offer concrete steps for ensuring the right to employment for IDPs and other conflict-affected people, even though the Government identifies challenges related to IDP employment in item 5 “Ensuring the development of an inclusive labor market” in the Main Implementation Areas of the State Policy on Employment and Encouragement of Job Creation 2022[[6]](#footnote-6).

The existing case-law shows that the trend of withholding social benefits and pensions from IDPs continues, including on the grounds of the Cabinet of Ministers Resolution 365 of June 8, 2016. Thus, a Donetsk National Technical University professor’s pension was suspended on the grounds that he had crossed the demarcation line and stayed in Donetsk for some time. The Pension Fund suspended his pension on account of his alleged relocation to the occupied territory, even though he was still working and paying taxes. It took a court decision to have the payments resumed[[7]](#footnote-7).

Another example concerns social benefits. In April 2015, the applicant, who had been receiving social benefits as a victim of a mine accident, was denied payments on the grounds that the authorities did not find him at his place of residence. In August 2018, the applicant’s payments were suspended on the grounds of his temporary stay in Poland. He managed to get the payments resumed in court.

Question 3[[8]](#footnote-8)

Unfortunately, the Government has not taken steps to ensure the provision of pensions to residents of the temporarily occupied territories. Pensions are still paid only to those registered as IDPs.

Problems with getting one’s pension also arise due to the Pension Fund’s practice of requesting additional files from the temporarily occupied territories. Thus, a disabled resident of Mariupol is being denied his pension on the grounds of an incorrect entry in his employment record book, according to Pension Fund’s representatives. The man was once a full-time student at the Luhansk Technical College. At one point he left college and joined the army, then went back to studying and graduated. The Pension Fund refuses to recognize this period as job experience and demands a confirmation note from the college, which is located outside government-controlled territory.

The rights of civilians from the temporarily occupied territories who developed disabilities as a result of wounds are also being infringed upon. In accordance with Article 7 of the Law of Ukraine "On the Status of War Veterans and Guarantees of Their Social Protection", persons with war-related disabilities include persons who developed a disability as a result of wounds or other damage to their health: "caused by explosives, ammunition and military armaments in the Anti-Terrorist Operation zone, or in the course of performing actions aimed at ensuring national security and defense, repelling and deterring the armed aggression of the Russian Federation in Donetsk and Luhansk oblasts before December 1, 2014, and after December 1, 2014 - in the Anti-Terrorist Operation zone, in the course of performing actions aimed at ensuring national security and defense, repelling and deterring the armed aggression of the Russian Federation in Donetsk and Luhansk oblasts where state authorities exercise their powers and in settlements located near the contact line, in the course of conducting the Anti-Terrorist Operation, performing actions aimed at ensuring national security and defense, repelling and deterring the armed aggression of the Russian Federation in Donetsk and Luhansk oblasts."[[9]](#footnote-9) As a result, those who developed conflict-related disabilities after December 1, 2014 are unable to get the status of a person with a war-related disability. Thus, a person wounded during the shelling of Horlivka, Donetsk Oblast, February 3, 2015, which led to disability, was denied the status of a person with a war-related disability.

Another problem concerns the legal status of persons that used to be civil servants in the now occupied territory, since Ukrainian legislation has neglected to address their status. All city, township and village councils that existed before the occupation still exist from the legal perspective, even though they are unable to function. In accordance with the law, the powers of city, township or village mayors end when new mayors are elected, but there have been no elections there, so the current heads of these local governments technically cannot be dismissed. A good example of this is the situation of the person who was elected Mayor of Amvrosiyivka, Donetsk Oblast, in 2010 for a 5 year term. In 2014, the city was captured by illegal armed forces, who forced the Mayor to sign a letter of resignation. The man was eventually forced to leave the city because of threats to his life and health. Later in 2014 he went to court to invalidate the Amvrosiyivka City Council’s decision on his dismissal, asking the court to reinstate him and order to pay him compensation for the period of forced absenteeism. The Amvrosiyivka Rayon Court began examination of the case but the ruling never came since the court had to suspend its activities. Our client subsequently turned to another court, asking to continue consideration of his claim. As of 2019, the case is still undergoing examination in courts and Amvrosiyivka Mayor’s legal status remains uncertain.

## Question 20[[10]](#footnote-10)

10. To implement measures to ensure and protect the rights of persons that are unlawfully deprived of their liberty (or those who were deprived of their liberty) by unlawful armed groups, occupation administration and/or authorities of the Russian Federation for political reasons, as well as in connection with public, political or professional activities of such persons, to support the said persons and their families, the Cabinet of Ministers of Ukraine approved the relevant Procedure[[11]](#footnote-11). Clause 6 of this Procedure stipulates that the decision on granting assistance, including one-time assistance, to such persons shall be adopted by the Commission, regulation on which was approved by the Ministry of Temporarily Occupied Territories and Internally Displaced Persons of Ukraine in October 2018[[12]](#footnote-12). The documents received by the commission for the purpose of decision-making include the below: "information or documents confirming the fact and circumstances of deprivation of a person's liberty by unlawful armed groups, occupation administration and/or authorities of the Russian Federation in the temporarily occupied territories of Ukraine and/or the territory of the Russian Federation in connection with the public or political activity of such a person in the current year"[[13]](#footnote-13). As a consequence, persons unlawfully deprived of their liberty by unlawful armed groups or occupation authorities were denied access to services in previous years. For example, a person who was held captive in the so-called LPR in June 2014 was denied because he did not provide evidence of his being held captive in 2018. On November 25, 2019, the court granted the claim challenging the denial[[14]](#footnote-14). By the same decision, the Court recognized the clause of the regulation which prevented the receipt of services and compensation by persons that are unlawfully deprived of their liberty (or those who were deprived of their liberty) by unlawful armed groups or occupation authorities in previous years[[15]](#footnote-15).

11. Finally, the Cabinet of Ministers of Ukraine adopted a number of regulations aimed at securing rights and compensation, which, among other things, envisage the approval of a new regulation on the Interagency Commission[[16]](#footnote-16).

Question 23[[17]](#footnote-17)

12. Since the start of the conflict, more than 50,000 apartment buildings on both sides of the contact line have been damaged in Donetsk Oblast, with 738 registered as having been damaged for the first time in 2018. At the same time, humanitarian organizations in this area note the lack of clear and verified data on damage to private housing[[18]](#footnote-18).

13. The Government is taking some measures to restore social infrastructure destroyed and damaged as a result of the armed hostilities, in particular, a subsidy is granted to local budgets for the restoration (construction, major repairs, reconstruction) of infrastructure in Donetsk and Luhansk Oblasts. However, to date, no effective mechanism has been put in place to compensate for destroyed or damaged private housing. Private homeowners can only rely on the help of humanitarian organizations and the assistance of regional authorities, which includes building materials. Local governments in some cities, such as Sloviansk, provide financial assistance under local programs. However, the small amount of such assistance does not allow the housing to be restored after significant damage[[19]](#footnote-19).

14. Data provided by humanitarian organizations indicate the inability of households to repair damaged housing on their own. "Of the 3945 households in Bakhmutskyi, Volnovaskyi, Marinskyi and Yasynuvatskyi Districts, as well as Avdiivka: more than 50% of the surveyed population are elderly; women are in charge of approximately 65% of the surveyed households; 49% of respondents meet more than one household vulnerability criterion (single parent, illness, old age and/or disability); almost all surveyed households expressed their intention to remain in the same place after the restoration or reconstruction of their damaged houses; 39% of households do not have access to centralized water supply systems and 70% do not have sewage systems; the most socially and economically vulnerable are unable to pay for legal services to confirm title to their property; a three-year statute of limitations on civil proceedings means that many households are at risk of losing their compensation and some have already lost it; the average income among the surveyed population is lower than the minimum wage."[[20]](#footnote-20)

15. In July 2019, the government approved a mechanism to compensate for the housing damaged due to a military emergency caused by the armed aggression of the Russian Federation. “As of July, owners of residential property destroyed as a result of the hostilities in the east of Ukraine were entitled to claim financial compensation from the state. However, the amount of financial compensation is limited to UAH 300,000 and must be calculated on a case-by-case basis. It should also be noted that this amount takes into account the assistance previously received from housing organizations. According to the approved mechanism, local authorities or civil-military administrations are responsible for assessing the extent of the damage caused and for establishing a local register of destroyed buildings, etc. However, it is unclear how this mechanism will work in practice, as the supporting tools necessary for its implementation have not yet been developed. Until now, no proper system of compensation for damaged or destroyed property has been put in place. For a number of formal reasons, actions in the legal field that were predominantly taken by people affected by the hostilities proved to be ineffective and the administrative procedure was not applied consistently due to the lack of a unified approach used by the public authorities."[[21]](#footnote-21)

Question 27[[22]](#footnote-22)

16. At the national level, there is no clear quantitative data on persons who have health problems as a result of the armed conflict. The number of physically or mentally injured children is calculated only after the status of the conflict-affected child has been determined. As for adults, we can only speak of the number of persons who have health problems based on the consequences of which the status of a person with a war-related disability has been established. Some data are collected at the regional level, but experts believe that this data may be inaccurate[[23]](#footnote-23).

17. The lack of adequate statistics does not allow us to assess the needs for medical care and rehabilitation services, and therefore to plan the necessary financial resources. For example, data from the Luhansk Oblast State Administration show that despite the growing number of injured people (509 or 559 civilians according to different sources), medical and rehabilitation facilities are coping with the workload. .

18. Among civilians who have health problems as a result of injuries or other conflict-related health problems, the proportion of those with disabilities has increased. At the stage of disability categorization, civilians encountered several obstacles. Thus, of the 30 civilians surveyed, 13% found the procedure for establishing disability category too long – from 100 days to two years. 16% of respondents were offered to financially incentivize commission physicians. 86% have problems with the annual update of their disability category. The cost of services and the need to travel from the town on the contact line to the regional center forced one respondent to refuse from establishing her disability category[[24]](#footnote-24).

19. Rehabilitation services are usually received by the affected persons either at healthcare facilities or at rehabilitation facilities. It was the remoteness of rehabilitation facilities from the place of residence that has made it difficult for 40% of civilians to receive services. The same number considered the cost of travel to rehabilitation facilities as an obstacle. In addition, obstacles include the lack of transport accessible for people with disabilities. It is noteworthy that the list and planning of rehabilitation services were made at the stage of disability categorization for 50% of respondents, while a mere 20% received the above during treatment[[25]](#footnote-25).

20. There is also a lack of psychological rehabilitation services and assistance for civilians who have health problems. A mere 13% of surveyed were offered psychological help by doctors during inpatient treatment; 1 respondent was offered such assistance by the primary care physician; 13% of victims received such assistance from volunteer or charitable organizations; 27% were not offered any psychological assistance and did not even know if they needed these services; 23% believe that they do not need these services; 17% of the affected people rely solely on the help of relatives and friends; 1 respondent searched for the providers of such services on her own. Neither the civilian victims interviewed nor the family members taking care of such persons mentioned any cases of psychological assistance or support provided by the authorities or social services.

## Question 28[[26]](#footnote-26)

21. Despite the approval of the new version of the Regulations on External Program in General Educational Institutions by the Ministry of Education and Science of Ukraine in 2017, which regulates the general secondary education for persons who used to reside or still reside in temporarily occupied territories, young people may not enjoy equal educational benefits of free general secondary education. Education is provided by ineffective means – that is, distance learning or self-education (external form) – when the state performs only a controlling function (in the form of state exams), without developing appropriate curricula for online courses.

22. Currently, residents of the temporarily occupied territory of the ARC can enter 35 higher educational institutions. After the merger of the educational centers "Crimea-Ukraine" and "Crimea-Donbas", this indicator will increase to 54, where the centers are located. However, compared to the opportunities offered to prospective students from other regions of Ukraine who can choose from more than 600 higher educational institutions, this indicator is low.

23. Despite the positive decision to allocate educational quotas for prospective students from the occupied territory, the government did not pay attention to the problems of the Crimean residents transferred from educational institutions established by the occupation authorities. The educational system does not consider these persons as the ones entering higher educational institutions for the first time, and therefore they are deprived of quotas for free education.

24. The analysis of the dynamics of admission through the Crimea-Ukraine Educational Centers since 2016 indicates that there is a demand for Ukrainian education (2016 -153, 2018 - about 270, 2019 - about 300). However, this admission system is complex and incomprehensible. As a result, this leads to the loss of children who wish to study in a particular field not offered by higher educational institutions where educational centers operate.

25. The number of intending students from the Crimea through the simplified admission system is not increasing significantly, and Quota-2 offered by the state in the amount of about 3,000 seats covered by the state was used by a mere 10%. And this is when the intending students from the Crimea, who are guaranteed the right to get education at the expense of the budget, ended up being forced to pay for their studies only because they used the general admission system (through the EIT (External Independent Testing)).

26. Admission systems to Ukrainian higher educational institutions have some disadvantages: educational segregation; absence of Quota-2 in higher educational institutions of the Ministry of Culture of Ukraine and the Ministry of Health of Ukraine; the unreadiness of Ukraine-Crimea Educational Centers to work with applicants to vocational institutions; inability to submit documents simultaneously to several Educational Centers; requirements for submission of documents prohibited by the state, etc. In addition, the presence of two admission systems causes confusion and misunderstanding on the part of the prospective students and their parents.

27. There are many obstacles in the logistics plane as well: the cost of travel from the occupied territories to other regions of Ukraine requires considerable financial resources; minor children can only cross the entry-exit checkpoint accompanied by both parents or one of them, which significantly increases the financial cost. There is a problem of obtaining documents proving Ukrainian citizenship. Namely, for the period of documents preparation persons should be located in the mainland Ukraine. All this leads to a critically low number of prospective students from the occupied territories

28. Since 2015, the issue of obtaining educational documents (certificates of basic secondary education and certificates of completion of comprehensive secondary education) has been replaced by the issue of admission to higher educational institutions of Ukraine. The created system is aimed only at those students who want to continue their studies in the higher educational institutions of Ukraine, and does not address the issue of "nostrification" in any form of educational documents of children from the occupied territory.

### Recommendations

1. Provide opportunity for the residents of the temporarily occupied territories of Donetsk and Luhansk Oblasts to receive pension and social payments without the need to obtain the status of internally displaced person.

2. Amend Article 7 of the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection" to extend the status of persons with war-related disabilities to persons residing in the occupied areas of Donetsk and Luhansk Oblasts with health problems after December 1, 2014 .

3. Adopt legislation to provide for compensation for damaged/destroyed property.

4. Develop and implement a system for receiving rehabilitation services and aids for persons with disabilities before formally establishing the status of a person with a disability. Ensure that rehabilitation services are available at the place of residence of persons with disabilities. Extend rehabilitation services, including psychological rehabilitation, to family members of persons with disabilities.

5. Simplify the procedure for obtaining a status of a person with disability.

6. In order to ensure equal access to education for the residents of temporary occupied territories, develop and approve curricula, including those for online courses. Provide educational institutions that will provide distance learning with appropriate facilities, including high-speed Internet connection.

7. Provide additional tools and opportunities for access to vocational and higher education by the residents of temporary occupied territories.

8. Ensure the inclusion of internally displaced persons into regional and local programs and policies to combat poverty without discrimination.

9. Create conditions for proper transport connections in Donetsk and Luhansk Oblasts, including settlements located on the demarcation line.

1. Please provide information on the general impact of the temporary occupation of the Autonomous Republic of Crimea and the ongoing armed conflict in eastern Ukraine (Donetsk and Luhansk oblasts) on host communities. [↑](#footnote-ref-1)
2. Integration Index of Internally Displaced Persons / CEDOS. – [website]. – Link: https://cedos.org.ua/uk/vpo-integration-index?fbclid=IwAR3GGTrraM7eYHj1p51ZSAXaByGgm1kI9NSEeev4wmKQCX6lZOQDJeNFjEQ [↑](#footnote-ref-2)
3. Local Human Rights Index of a group of frontier cities of Ukraine based on the decent living standard criterion [analytical report on monitoring results] / Professor A. Galai, Docent B. Moysa. – Kyiv: Ukrainian Helsinki Human Rights Union, 2018.–30 p. – [website]. – Link: http://hro.org.ua/files/docs/1545035606.pdf [↑](#footnote-ref-3)
4. Provision of social services to residents of communities affected by the armed conflict and to internally displaced persons [analytical report on monitoring results] / Professor A. Galai, B. Moysa, L. Fursova. - Kyiv: Ukrainian Helsinki Human Rights Union, 2019. – 30 p. – [website]. – Link: https://helsinki.org.ua/wp-content/uploads/2019/11/Press\_Analit\_Oglyad\_A4-UKR.pdf [↑](#footnote-ref-4)
5. Please provide information on the main challenges faced by internally displaced persons from Donetsk and Luhansk oblasts and from the Autonomous Republic of Crimea, and on the measures taken to realize their economic, social and cultural rights. [↑](#footnote-ref-5)
6. Main Implementation Areas were adopted by Resolution of the Cabinet of Ministers of Ukraine
no. 1396-r of 24 December 2019 – [website]. – Link: https://zakon.rada.gov.ua/laws/show/1396-2019-%D1%80 [↑](#footnote-ref-6)
7. Provision of social services to residents of communities affected by the armed conflict and to internally displaced persons [analytical report on monitoring results] / Professor A. Galai, B. Moysa, L. Fursova. - Kyiv: Ukrainian Helsinki Human Rights Union, 2019. – 30 p. – [website]. – Link: https://helsinki.org.ua/wp-content/uploads/2019/11/Press\_Analit\_Oglyad\_A4-UKR.pdf [↑](#footnote-ref-7)
8. Please provide information on the measures taken to guarantee that persons living in the non-Government-controlled areas may enjoy their economic, social and cultural rights. [↑](#footnote-ref-8)
9. https://zakon.rada.gov.ua/laws/show/3551-12 [↑](#footnote-ref-9)
10. Please provide information on the progress made in the application of Cabinet of Ministers Resolution No. 38, which provides a one-time payment to any persons who have been unlawfully deprived of liberty in the non-Government-controlled areas of the Donetsk and Luhansk oblasts, regardless of the date of their release. [↑](#footnote-ref-10)
11. https://zakon.rada.gov.ua/laws/show/328-2018-%D0%BF#n18 [↑](#footnote-ref-11)
12. https://zakon.rada.gov.ua/laws/show/z1230-18 [↑](#footnote-ref-12)
13. Subclause 2 of clause 2 of the Regulation. [↑](#footnote-ref-13)
14. https://helsinki.org.ua/articles/6-rokiv-u-sizo-bez-rishennia-sudu-istoriia-zaruchnyka-tak-zvanoi-dnr/ [↑](#footnote-ref-14)
15. http://reyestr.court.gov.ua/Review/86355143 [↑](#footnote-ref-15)
16. https://www.kmu.gov.ua/npas/deyaki-pitannya-socialnogo-i-pravov-a1122?fbclid=IwAR2yBW8S\_GAI2bqQfWvbc2nZeFBQKrBJU7nKeMeewkv9ICDTSVVboA\_fhG4 [↑](#footnote-ref-16)
17. Please provide information on the measures envisaged to establish a comprehensive mechanism for assessment, restitution and compensation and to provide access to effective remedies for (a) property damaged or destroyed due to the armed hostilities, guaranteeing equal access to these remedies for all victims and including measures to develop a comprehensive policy to protect housing, land and property rights; and (b) damages or costs incurred as a result of military occupation or the use of civilian property. [↑](#footnote-ref-17)
18. Humanitarian Assessment of Damage to the Community's Housing on the Contact Line in the Government-Controlled Donetsk Oblast. / Norwegian Refugee Council. – 2019. – [Electronic resource]. - Access mode: http://lis.gov.ua/attachments/article/21515/Dosl%D1%96dzhennya%20\_NRC\_UKR.pdf [in Ukrainian] [↑](#footnote-ref-18)
19. Compensation Measures in the Context of an Emergency Situation, Monetary Compensation for Housing Destroyed as a Result of Armed Hostilities. / Norwegian Refugee Council. – 2019. – [Electronic resource]. - Access mode: http://lis.gov.ua/attachments/article/21515/Dosl%D1%96dzhennya%20\_NRC\_UKR.pdf [in Ukrainian] [↑](#footnote-ref-19)
20. Humanitarian Assessment of Damage to the Community's Housing on the Contact Line in the Government-Controlled Donetsk Oblast. / Norwegian Refugee Council. – 2019. – [Electronic resource]. - Access mode: http://lis.gov.ua/attachments/article/21515/Dosl%D1%96dzhennya%20\_NRC\_UKR.pdf [in Ukrainian] [↑](#footnote-ref-20)
21. Ibid. [↑](#footnote-ref-21)
22. Please provide statistical data, disaggregated by sex and age, on the proportion of the conflict-affected population who have benefited from psychological rehabilitation or support. Please provide information on the measures taken and challenges encountered in providing adequate psychological counselling to conflict-affected populations, in particular internally displaced persons and demobilized anti-terrorist operation participants. [↑](#footnote-ref-22)
23. Rehabilitation of Conflict-Affected Populations. Does the State Offer Anything Other Than Disability Assessment and Crutches? / B. Moisa, ed. by: O. Pavlichenko, O. Martynenko / Ukrainian Helsinki Human Rights Union. — К., 2018. — 64 p. – [Electronic resource]. - Access mode: https://helsinki.org.ua/wp-content/uploads/2018/12/Reabilitatsiya-zhertv-vijny.pdf. [in Ukrainian] [↑](#footnote-ref-23)
24. Ibid. [↑](#footnote-ref-24)
25. Ibid. [↑](#footnote-ref-25)
26. Please provide information on the measures taken and challenges encountered in facilitating access to education for children and young people residing in conflict-affected areas (both Government-controlled areas and non-Government-controlled areas), especially those living close to the contact line. [↑](#footnote-ref-26)