



January 2015

## International Protection Considerations related to developments in Ukraine – Update II

### Recent Developments in Ukraine

1. Since the issuance of UNHCR's previous position in July 2014,<sup>1</sup> the situation in Ukraine has further deteriorated. On 23 July, the International Committee of the Red Cross (ICRC) referred to the conflict in eastern Ukraine as a "non-international armed conflict."<sup>2</sup> Despite the cease-fire agreed in Minsk on 5 September 2014, hostilities have continued in Donetsk and Luhansk region, resulting in an increasingly insecure environment and reported on-going human rights violations.<sup>3</sup> The breakdown in public services and economic collapse, have further contributed to humanitarian needs in the areas of Donetsk and Luhansk regions not controlled by the Government of Ukraine.<sup>4</sup> Displacement from these densely populated regions continues to grow, and humanitarian needs are increasing during the current winter season.
2. With the aim of stabilizing the situation the incoming President, Petro Poroshenko, stepped up the so-called anti-terrorist operation (ATO) against armed groups that had taken control of certain areas of Donetsk and Luhansk regions.<sup>5</sup> The crash of the Malaysia Airlines flight MH17 over eastern Ukraine on 17 July was cited as further justification for the ATO.<sup>6</sup> By August 2014, Government troops had retaken 65 cities in Luhansk and Donetsk regions, although armed groups continued to control important areas.<sup>7</sup> Subsequently hostilities intensified in urban areas, resulting in further casualties. As of 6 January 2015, 4,808 dead and 10,468 wounded were reported in eastern Ukraine as a result of the conflict.<sup>8</sup> To prevent further loss of life, representatives of Ukraine, Russia, the self-proclaimed "Donetsk People's

<sup>1</sup> UN High Commissioner for Refugees (UNHCR), *International Protection Considerations related to the developments in Ukraine*, 1 July 2014, <http://www.refworld.org/docid/53b29ad44.html>.

<sup>2</sup> ICRC, *Ukraine: ICRC calls on all sides to respect international humanitarian law*, News Release 14/125, 23 July 2014, <https://www.icrc.org/eng/resources/documents/news-release/2014/07-23-ukraine-kyiv-call-respect-ihl-repatriate-bodies-malaysian-airlines.htm>.

<sup>3</sup> See 2014 reports of the Office of the High Commissioner for Human Rights, available at <http://www.ohchr.org/en/countries/ENACARegion/Pages/UAIndex.aspx>.

<sup>4</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 December 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf).

<sup>5</sup> Al Jazeera, *Timeline: Ukraine's political crisis*, <http://www.aljazeera.com/news/europe/2014/03/timeline-ukraine-political-crisis-201431143722854652.html> (accessed 12 December 2014, last updated 20 September 2014).

<sup>6</sup> The Guardian, *Workers recover debris from MH17 crash site in rebel-held eastern Ukraine*, 16 November 2014, <http://www.theguardian.com/world/2014/nov/16/mh17-debris-collection-ukraine>.

<sup>7</sup> OHCHR, *Report on the human rights situation in Ukraine*, 17 August 2014, <http://www.ohchr.org/Documents/Countries/UA/UkraineReport28August2014.pdf>.

<sup>8</sup> OCHA, *Ukraine – Situation report No. 23 as of 9 January 2015*, <http://reliefweb.int/sites/reliefweb.int/files/resources/Sitrep%2023%20-%20Ukraine%20-%202015%20January.pdf>. The figures include 298 individuals from the MH-17 flight. This is considered to be a conservative estimate, OHCHR and WHO believe the actual numbers to be considerably higher.

Republic” (“DNR”) and “Luhansk People’s Republic” (“LNR”) and the Organization for Security and Co-operation in Europe (OSCE), signed on 5 September 2014 in Minsk, Belarus, a cease-fire agreement with a 12-point Protocol.<sup>9</sup>

3. The situation improved slightly and the number of casualties decreased after the signing of the Minsk agreement. However, the agreement’s provisions are, reportedly, not always fully implemented.<sup>10</sup> It is reported that some 1,000 people have been killed since the ceasefire, and that the risk of further hostilities remains high.<sup>11</sup>
4. On 26 October 2014, Ukraine held extraordinary parliamentary elections, with Western-leaning parties taking the majority of seats.<sup>12</sup> The “DNR” and “LNR” held their own elections on 2 November 2014 in defiance of the Minsk Agreement.<sup>13</sup> These elections were declared illegal by President Poroshenko, who responded with a decree ordering withdrawal of all state services in non-government controlled areas and formally requesting parliament to revoke the “special status” law relating to these areas that had come into effect during the ceasefire.<sup>14</sup> The Russian Federation expressed its respect for the election results but, contrary to the elections in Crimea, did not recognize them.<sup>15</sup> Observers have expressed concern that Ukraine is taking on the contours of yet another “long-term frozen conflict” of the former USSR.<sup>16</sup>
5. Serious abuses continue to be reported in the course of the hostilities. Parties to the conflict are reported to have shown disregard for civilian life through indiscriminate shelling of densely populated areas and the intermingling of armed groups in civilian areas has further endangered the local population.<sup>17</sup> The armed conflict is reported to have given rise to serious violations of human rights and international humanitarian law in the non-government controlled areas, including killings, abductions, torture, ill-treatment, and forced recruitment.<sup>18</sup> Crimes against civilians have reportedly also been committed by pro-

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<sup>9</sup> OSCE, *Protocol on the results of consultations of the Trilateral Contact Group, signed in Minsk, 5 September 2014*, <http://www.osce.org/home/123257>.

<sup>10</sup> Security Council Report, *What’s in Blue - Ukraine Briefing on Human Rights and Political Situation*, 23 October 2014, <http://www.whatsinblue.org/2014/10/ukraine-briefing-on-human-rights-and-political-situation.php>; see also OHCHR, *Report on the human rights situation in Ukraine*, 15 December 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf).

<sup>11</sup> International Crisis Group (ICG), *Eastern Ukraine: A Dangerous Winter*, 18 December 2014, <http://www.crisisgroup.org/~media/Files/europe/ukraine/235-eastern-ukraine-a-dangerous-winter.pdf>.

<sup>12</sup> European Parliament, *Press Release. European Parliament ratifies EU-Ukraine Association Agreement*, 16 September 2014, <http://www.europarl.europa.eu/news/en/news-room/content/20140915IPR62504/html/European-Parliament-ratifies-EU-Ukraine-Association-Agreement>. See also: The Economist, *A coalition for Kiev*, 27 October 2014, <http://www.economist.com/blogs/easternapproaches/2014/10/ukraines-elections>. The DNR and LNR denied those living in eastern regions under their control to vote, and residents in Crimea had to cross to the mainland to vote. See e.g.: OHCHR, *Report on the human rights situation in Ukraine*, 15 November 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_seventh\\_reportUkraine20.11.14.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_seventh_reportUkraine20.11.14.pdf).

<sup>13</sup> BBC News, *Ukraine deal with pro-Russian rebels at Minsk talks*, 20 September 2014, <http://www.bbc.com/news/world-europe-29290246>.

<sup>14</sup> While pending revocation, the law remains in effect. It is the *Law on the special order of local self-government in specific regions of Donetsk and Luhansk oblasts*, No. 1680-VII of 16 September 2014. Available in Ukrainian at <http://zakon2.rada.gov.ua/laws/show/1680-vii>; see also: BBC News, *Ukraine rebel areas to lose state services*, 16 November 2014, <http://www.bbc.com/news/world-europe-30072483>.

<sup>15</sup> ICG, *Eastern Ukraine: A Dangerous Winter*, 18 December 2014, <http://www.crisisgroup.org/~media/Files/europe/ukraine/235-eastern-ukraine-a-dangerous-winter.pdf>.

<sup>16</sup> ICG, *Eastern Ukraine: A Dangerous Winter*, 18 December 2014, <http://www.crisisgroup.org/~media/Files/europe/ukraine/235-eastern-ukraine-a-dangerous-winter.pdf>; see also BBC News, *Ukraine crisis: ‘Frozen conflicts’ and the Kremlin*, 9 September 2014, <http://www.bbc.com/news/world-europe-29078541>.

<sup>17</sup> OHCHR, *Report on the human rights situation in Ukraine*, 16 September 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_sixth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf).

<sup>18</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 December 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf).

government Ukrainian voluntary battalions.<sup>19</sup> The armed conflict has caused large-scale destruction of housing.<sup>20</sup>

6. Observers note that the human rights and political situation continues to be volatile in the areas outside of government control. Human rights monitors report incidents of detention, expropriation of property and forced labour. Persons opposed, or perceived to be opposed, to the *de facto* authorities are reported to be particularly at risk. This includes persons displaying Ukrainian national or cultural symbols, using the Ukrainian language, attending churches that do not belong to the Moscow patriarchate of the Orthodox Church, or criticizing the *de facto* authorities.<sup>21</sup> The space for freedom of expression, as well as the freedom of the press is reported to have been severely curtailed and working conditions for media professionals are said to remain dire due to security concerns.<sup>22</sup>
7. The economic and social conditions in the areas outside of government control have deteriorated dramatically. Due to the disruption caused by the conflict, industrial production is reported to have dropped by an estimated 60 per cent in Donetsk oblast and by 85 per cent in Luhansk oblast, leaving many with no source of income.<sup>23</sup> Electricity, gas and water systems continue to function in most areas within the Donetsk central administrative area, although areas around the airport and close to the confrontation line report problems with access to the same facilities, which are crucial, particularly for the winter months.<sup>24</sup> The majority of people in the conflict area report that the food supplies are the most pressing need and many are dependent on food assistance.<sup>25</sup> Material to repair damaged houses and flats is another urgent need. Access to education is limited, mainly due to the destruction of buildings and general insecurity. There are reportedly serious shortages of medicine and medical personnel, and increased mortality rates in the most affected medical institutions, including mental hospitals.<sup>26</sup> The situation has deteriorated following the government's decision to evacuate all government institutions, including hospitals, from the territory controlled by armed groups and to stop funding those institutions as of 1 December 2014.<sup>27</sup> This has reportedly hastened the already broad exodus of qualified medical personnel.<sup>28</sup>
8. Following the referendum, which was not authorized by Ukraine, in the Autonomous Republic of Crimea, the peninsula has reportedly been gradually introducing the legal,

<sup>19</sup> The pro-Government voluntary battalions are supposed to be under control of the Ukrainian military, but command and control of these battalions is weak. See: Amnesty International, *Ukraine: Summary killings during the conflict in eastern Ukraine*, 20 October 2014, <http://www.amnesty.org/en/library/asset/EUR50/042/2014/en/ca812126-c42c-45f9-9557-d7c4b117be31/eur500422014en.pdf>.

<sup>20</sup> The Ministry of Regional Development estimates that 4,501 residential buildings and 4,733 energy and water systems facilities and structures have been damaged as a result of fighting. It is also reported that 'abandoned' property is being nationalized for the needs of the 'republic' in areas controlled by armed groups, see e.g.: OHCHR, *Report on the human rights situation in Ukraine*, 16 September 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_sixth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf).

<sup>21</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 December 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf).

<sup>22</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 November 2014, [http://www.un.org.ua/images/stories/FINAL\\_OHCHR\\_seventh\\_report\\_Ukraine\\_20.11.14\\_before\\_launch.pdf](http://www.un.org.ua/images/stories/FINAL_OHCHR_seventh_report_Ukraine_20.11.14_before_launch.pdf).

<sup>23</sup> The figures refer to the fall in year-on-year industrial production as of September 2014. The Economist, "Ukraine's economy: Worse to come?", 15 November 2014, <http://www.economist.com/news/finance-and-economics/21632633-swooning-economy-desperate-need-investment-worse-come>.

<sup>24</sup> Information available to UNHCR.

<sup>25</sup> According to information available to UNHCR, the "Akhmetov Foundation" remains the main provider of food assistance to people in Donetsk, however they are not able to reach all in need, in particular people living in less organized rural areas, and areas close to active fighting.

<sup>26</sup> International organizations informed that 5 had died in institutions in October and 20 in November, most likely due to poor hygiene, poor nutrition, and lack trained personnel. ICG, *Eastern Ukraine: A Dangerous Winter*, 18 December 2014, <http://www.crisisgroup.org/~media/Files/europe/ukraine/235-eastern-ukraine-a-dangerous-winter.pdf>; see also: OHCHR, *Report on the human rights situation in Ukraine*, 15 December 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf).

<sup>27</sup> Resolution of the Cabinet of Ministers, no. 595 of 7 November 2014, available in Ukrainian, <http://zakon2.rada.gov.ua/laws/show/595-2014-%D0%BF>; see also: OHCHR, *Report on the human rights situation in Ukraine*, 15 December 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf).

<sup>28</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 December 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf).

political and economic systems of the Russian Federation.<sup>29</sup> According to the Law of the Russian Federation of 23 of March 2014 “*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*”, Ukrainian citizens and stateless persons permanently residing in the Autonomous Republic of Crimea and the city of Sevastopol acquired the citizenship of the Russian Federation automatically. They were given until 18 April 2014 to opt out of Russian citizenship, if they wished, 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 and information about the procedures was not readily available. In addition, it was reported that only a few offices of the Russian Federal Migration Service (FMS) could process these applications, and additional offices only became operational a couple of weeks before the expiration of the deadline. The implications of opting out of Russian citizenship were not clear. It is believed that the vast majority of residents of Crimea acquired Russian citizenship.<sup>30</sup>

9. According to Ukrainian law, a person can be deprived of Ukrainian citizenship if he or she voluntarily acquires the citizenship of another state.<sup>31</sup> The procedure for deprivation of Ukrainian citizenship involves an application by an individual or a government agency along with provision of supporting documents and consideration of the case by a presidential commission. The deprivation of citizenship enters into force only upon a decision issued by the President.<sup>32</sup> Furthermore, Ukraine’s “law on temporarily occupied territories” states that the “forced automatic acquisition of the citizenship of the Russian Federation by the citizens of Ukraine residing on the temporarily occupied territory is not recognized by Ukraine and is not accepted as a ground for loss of citizenship of Ukraine.”<sup>33</sup> Therefore, under Ukrainian law, Ukrainian nationals in Crimea who acquired Russian citizenship are still considered to be citizens of Ukraine.
10. Human rights observers report concerns about the protection of rights in Crimea. The *de facto* authorities in Crimea have reportedly limited freedom of expression and the right to peaceful assembly, and are said to intimidate and harass those who oppose the Russian *de facto* authorities in Crimea. The introduction of Russian legislation in Crimea has reportedly allowed for intensified searches for so-called ‘extremist’ literature and activities, in particular targeting the Mejlis and Crimean Tatar population, leading to confiscation of religious literature, as well as incidents of detention, interrogations and the imposition of fines.<sup>34</sup> Given the Russian Federation’s restrictive legal framework regarding sexual orientation and gender identity, individuals of diverse sexual orientations and gender identities are reportedly facing increased risks.<sup>35</sup> There are also reports of discrimination affecting those who have refused to acquire Russian citizenship. For example, only Russian passport holders are allowed to

<sup>29</sup> 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](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/262).

<sup>30</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 December 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf), see also: HRW, *Rights in Retreat – Abuses in Crimea*, November 2014, [http://www.hrw.org/sites/default/files/reports/crimea1114web\\_0.pdf](http://www.hrw.org/sites/default/files/reports/crimea1114web_0.pdf).

<sup>31</sup> Article 19 of the Law on citizenship of Ukraine No. 2235-III of 18 January 2001. Available in Ukrainian at <http://zakon1.rada.gov.ua/laws/show/2235-14>.

<sup>32</sup> This procedure is described in Presidential Decree 215/2001 entitled “*Of Proceedings for Applications on the Issues of Citizenship and the Procedure of Implementation of the Adopted Decisions*” adopted on 27 March 2001, available in Ukrainian at <http://www.president.gov.ua/documents/584.html>.

<sup>33</sup> Article 5(4) of the Ukraine: 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* [Ukraine], 15 April 2014, <http://www.refworld.org/docid/5379ab8e4.html>.

<sup>34</sup> HRW, *Rights in Retreat – Abuses in Crimea*, November 2014, <http://www.hrw.org/sites/default/files/reports/crimea1114web.pdf>.

<sup>35</sup> OHCHR, *Report on the human rights situation in Ukraine*, 16 September 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_sixth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf).

occupy government and municipal jobs, leading to discrimination in access to employment.<sup>36</sup> It has also been reported that the use of the Ukrainian language has been severely limited in schools and universities located in Crimea.<sup>37</sup> The process of ‘nationalization’ and illegal seizure of private property and businesses by the *de facto* authorities is reported to be ongoing.<sup>38</sup>

## Internal displacement

11. As of 15 January 2015, the Ukrainian authorities reported that there are 642,861 identified IDPs; 97 per cent of whom are from Eastern Ukraine.<sup>39</sup> The majority stay in regions bordering the conflict areas, such as in the areas of Donetsk and Luhansk that the Ukrainian government controls, as well as in Kharkiv, Dnipropetrovsk and Zaporizhzhia regions. According to the State Emergency Service (SES), 24 per cent of IDPs are children, 24 per cent are considered elderly or disabled and, amongst the adult population, 66 per cent are women. As this data suggests, many IDP families are socially vulnerable, including elderly persons or unaccompanied women with children. In addition, many families are experiencing separation, since some family members remain at home to look after property or other family members. Given the dismantling of Ukrainian legal structures in the non-government controlled territories and the rise in general insecurity, people report being afraid that their property will be expropriated, looted or stolen if they do not remain to occupy it. Usually adult male family members remain behind. Furthermore, it is reported to UNHCR and partner organizations that men stay behind for other reasons, such as difficulties in crossing check-points or because they are supporting the *de facto* authorities.<sup>40</sup>
12. Following the cease-fire agreement in eastern Ukraine, some IDPs returned, at least temporarily, to the affected regions of Donetsk and Luhansk regions.<sup>41</sup> Others continue to leave, reportedly for reasons related to the ongoing violence, economic collapse, and lack of access to public services. Most IDPs in Ukraine have chosen not to return to their homes at this time because the situation remains highly unstable.<sup>42</sup> Recent research by the Kyiv International Institute of Sociology suggests that between a quarter and a third of the population in the areas not controlled by the government have left the region, meaning that a total of more than 1,000,000 are likely to have been displaced from these areas.<sup>43</sup> Until 1 October, there was no central registration system for IDPs in Ukraine, leading to difficulties in knowing with precision the real numbers and location of the displaced. Many IDPs chose not to register as the benefits of doing so were not clear, whereas others were afraid that registration could be seen as a political stand, fearing negative repercussions on relatives or to property in the East.<sup>44</sup>

<sup>36</sup> HRW, *Rights in Retreat - Abuses in Crimea*, November 2014, <http://www.hrw.org/sites/default/files/reports/crimea1114web.pdf>, p. 28.

<sup>37</sup> The Washington Post, *Eight months after Russia annexed Crimea from Ukraine, complicated transition*, 27 November 2014, [http://www.washingtonpost.com/world/europe/eight-months-after-russia-annexed-crimea-from-ukraine-a-complicated-transition/2014/11/27/d42bcf82-69b3-11e4-bafd-6598192a448d\\_story.html](http://www.washingtonpost.com/world/europe/eight-months-after-russia-annexed-crimea-from-ukraine-a-complicated-transition/2014/11/27/d42bcf82-69b3-11e4-bafd-6598192a448d_story.html); see also the report from Crimea Field Mission on Human Rights, November 2014, p. 26 available in Russian at [http://crimeahr.org/sites/default/files/crimea\\_field\\_mission\\_report\\_november\\_2014\\_ru.pdf](http://crimeahr.org/sites/default/files/crimea_field_mission_report_november_2014_ru.pdf).

<sup>38</sup> OHCHR, *Report on the human rights situation in Ukraine* (16 September 2014), [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_sixth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf), p. 33.

<sup>39</sup> Figures received from the State Emergency Service (SES).

<sup>40</sup> As reported by IDPs to UNHCR and partner organizations.

<sup>41</sup> UNHCR does not have a reliable figure capturing the number of returns to Donetsk and Luhansk regions. There has not been any recent public statement from the authorities indicating the number of returnees.

<sup>42</sup> As reported by IDPs to UNHCR and partner organizations.

<sup>43</sup> Kyiv International Institute of Sociology, *Project: Research on the needs for humanitarian assistance in Donetsk and Luhansk oblasts*, reports for October and November 2014, printed materials available to UNHCR.

<sup>44</sup> UNHCR, *Profiling and Needs Assessment of Internally Displaced Persons (IDPs)*, 17 October 2014, <http://unhcr.org.ua/attachments/article/971/IDP.pdf>.



13. As of 15 October, the Ministry of Social Policy (MoSP) launched a system of IDP registration and financial assistance, which includes incentives for IDPs to come forward.<sup>45</sup> Later, the Government announced that persons from the geographic areas outside of government control must register as IDPs in order to transfer their pensions and social benefits to a region where the government is capable of making payments.<sup>46</sup> Persons who transferred those benefits before the new registration procedure came into effect in mid-October have until 1 February 2015 to register as IDPs, or their benefits will be suspended.<sup>47</sup> The suspension of government payments in the non-government controlled areas is considered to have contributed to additional displacement, since all beneficiaries of social benefits must register as IDPs to receive their entitlements. In some regions, as many as 50 per cent of newly registered IDPs have been pensioners. The deadline of 1 February only relates to those who already transferred their social benefits payments to offices in government-controlled areas before mid-October, those who have been displaced after this date have been able to register with the MoSP as of the date of their displacement.<sup>48</sup>

## External displacement

14. The largest number of externally displaced Ukrainian nationals are in the Russian Federation. According to the data provided by the Russian Federation's Federal Migration Service (FMS), as of 23 December 2014, 245,510 Ukrainians applied for international protection,<sup>49</sup> and a further 244,326 had applied for other forms of legal stay.<sup>50</sup> The Russian authorities have not shared statistical information on the number of people who have returned to their country of origin. The number of applications for international protection has also moderately increased in other European countries. Between 1 January and 30 December 2014, more than 11,100 Ukrainians applied for international protection in EU countries, including 2,253 in Poland, 2,205 in Germany, 1,255 in Sweden and 1,248 in France.<sup>51</sup> Belarus has received 652 applications as of 24 December 2014. In addition, many Ukrainians have applied for other forms of legal stay; for example some 59,637 Ukrainians in Belarus, and 28,852 in Poland.<sup>52</sup>

## Reasons for Displacement and Protection Challenges

15. New displacement continues to take place amongst residents of the regions outside of government control. They report leaving for various reasons: the on-going shelling; destroyed houses and property; fear of abuses by armed groups; shortages of water, electricity, or heating; and limited access to health services and education.<sup>53</sup> People perceived to be supporting the Ukrainian government are reported to be at particular risk of abuse or

<sup>45</sup> As of 27 October, 135,000 IDPs had registered with the MoSP. UNHCR is working with the MoSP to create an electronic data-base and enhance the Ministry's capacity, see UNHCR, *UNHCR together with Georgian experts will help Ministry of Social Policy of Ukraine to develop IDP registration system*, 22 October 2014, <http://unhcr.org.ua/en/2011-08-26-06-58-56/news-archive/1366-the-un-refugee-agency-together-with-georgian-experts-will-help-ministry-of-social-policy-of-ukraine-to-develop-idp-registration-system>.

<sup>46</sup> Cabinet of Ministers, *Resolution no. 595*, 7 November 2014, <http://zakon4.rada.gov.ua/laws/show/595-2014-%D0%BF>.

<sup>47</sup> Cabinet of Ministers, *Resolution no. 637*, 5 November 2014, <http://zakon4.rada.gov.ua/laws/show/637-2014-%D0%BF>.

<sup>48</sup> Korrespondent Donbass, *Cabinet of Ministers clarifies that IDPs can register after 31 December*, 2 December 2014, <http://korrdon.info/events/61627-v-kabmine-utochnili-kto-iz-pereselencev-mozhet-stat-na-uchet-i-posle-31-dekabrya.html> (in Ukrainian), see also UNHCR, *Ukraine Situation-UNHCR Operational Update 31 December 2014*, <http://reliefweb.int/report/ukraine/ukraine-situation-unhcr-operational-update-31-december-2014>.

<sup>49</sup> This figure includes the number of applications for temporary asylum and refugee status.

<sup>50</sup> Other forms of legal stay include: Russian citizenship or 'Compatriots' Repatriation Programme (integration and support plan for foreigner citizens with family links to the Russian Federation), as well as temporary and permanent residence permits (which can be granted to foreigners already residing at least 6 months legally in the Russian Federation).

<sup>51</sup> Official figures reported to UNHCR by respective national asylum authorities. The figures for Germany and France are up-to-date until November 2014.

<sup>52</sup> Figures reported to UNHCR by respective national asylum authorities, as of 24 December for Belarus, and 30 December 2014 for Poland.

<sup>53</sup> Information available to UNHCR and partner organizations.

harassment from armed groups or the *de facto* authorities in the region.<sup>54</sup> Furthermore, there are increasing reports of violence against women in this area, including harassment, forced labour and sexual violence; there are also reports of sexual harassment at checkpoints whilst leaving the non-government controlled areas.<sup>55</sup> Humanitarian corridors were set up to allow civilians to securely leave Luhansk, Donetsk and Horlivka areas, where there was heavy fighting. However, the corridors went through areas with shelling, so the existence of corridors did not in fact guarantee a safe passage for those fleeing.<sup>56</sup> While IDPs report having to cross multiple check-points to leave the conflict-affected region, they say they have generally been able to travel in and out of the conflict zones. From 6 November 2014 onwards the Ukrainian government established check-points with identity checks for persons leaving the non-government-controlled areas. At these checkpoints, security checks may be implemented, particularly on men. Some men report that they are reluctant to approach the checkpoints. Furthermore, some men express fear that if they are recognized while leaving through checkpoints controlled by the *de facto* authorities, they may be perceived as betraying the *de facto* authorities; they also have fears of being recruited by the *de facto* authorities.<sup>57</sup>

16. The outflow of displaced persons from Crimea increased slightly in the autumn for a variety of reasons. In particular, the Crimean Tatar community had reportedly come under increasing pressure from the local authorities with searches being conducted of their homes and offices for 'extremist' material. Some families also said that they left as they did not want their children to attend the Russian school system. Others have reported that they left as they do not want to observe the obligatory service in the Russian military.<sup>58</sup> Residents of Crimea report to UNHCR that they have faced difficulty in exercising their professions due to changes in local regulations, and have left the peninsula for that reason. Ukrainians with valid Ukrainian documents are generally able to cross the administrative border between Crimea and the mainland. The Government of Ukraine still considers Ukrainian citizens with Crimean residence registration to remain Ukrainian citizens, even if they have acquired Russian citizenship.<sup>59</sup> A few individuals have however reportedly faced difficulties entering the mainland without a valid passport, or when wanting to renew their passports, thus restricting or preventing their access to the mainland, whether to take care of administrative procedures or for other reasons.<sup>60</sup> It has also been reported that some male Ukrainians have been questioned on their reasons for entering the mainland, with some restricted from entering the mainland by Ukrainian border guards on security grounds.<sup>61</sup>
17. On 20 October 2014, the Ukrainian Parliament adopted a law, *On ensuring rights and freedoms of internally displaced persons*; the law came into force on 22 November 2014. The law includes a definition of IDPs broadly consistent with international standards.<sup>62</sup> It provides for a specific set of IDP rights: protection against discrimination and forcible return;

<sup>54</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 December 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf).

<sup>55</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 November 2014, [http://www.un.org.ua/images/stories/FINAL\\_OHCHR\\_seventh\\_report\\_Ukraine\\_20.11.14\\_before\\_launch.pdf](http://www.un.org.ua/images/stories/FINAL_OHCHR_seventh_report_Ukraine_20.11.14_before_launch.pdf).

<sup>56</sup> OHCHR, *Report on the human rights situation in Ukraine*, 17 August 2014, <http://www.ohchr.org/Documents/Countries/UA/UkraineReport28August2014.pdf>.

<sup>57</sup> Information available to UNHCR and partner organizations.

<sup>58</sup> Information available to UNHCR and partner organizations.

<sup>59</sup> See also paragraph 9 above. Dual citizenship is not permitted according to Ukrainian law, see Article 19 of the *Law on citizenship of Ukraine* No. 2235-III of 18 January 2001. Available in Ukrainian at <http://zakon1.rada.gov.ua/laws/show/2235-14>.

<sup>60</sup> UNHCR legal partner Krym SOS (interview on 11 August 2014) reported that five Ukrainians who had lost their passports were prevented from leaving Crimea by the *de facto* authorities. Persons also face difficulty in entering the mainland if their passports are expired (i.e., need to have new photographs inserted at the age of 25 and 45), or when a 16-year-old wants to have his/her first passport issued.

<sup>61</sup> Information obtained during meetings with UNHCR legal partner Krym SOS on 11 August 2014.

<sup>62</sup> To comply more fully with international standards, the IDP law should extend protection to foreigners or stateless persons who reside in Ukraine and are internally displaced, as well as to unregistered IDPs in cases of mass influx. See UNHCR, *UNHCR encourages swift adoption of legislation to protect internally displaced persons in Ukraine*, 15 September 2014, <http://unhcr.org.ua/en/2011-08-26-06-58-56/news-archive/1334-unhcr-encourages-swift-adoption-of-legislation-to-protect-internally-displaced-persons-in-ukraine>.

assistance in voluntary returns; simplified access to social and economic services, including residence registration and employment. The law also obliges the government to develop a policy on the integration of IDPs. The Cabinet of Ministers has previously adopted resolutions covering accommodation, registration, property issues, social assistance, registration of private businesses, education and other issues specific to IDPs.<sup>63</sup> The new law is expected to help resolve several outstanding issues and to ensure IDP access to fundamental rights and assistance. There is however still no provision for compensation for damaged or destroyed property. UNHCR continues to advocate for further legislative changes with a view to achieving better protection of IDPs.<sup>64</sup>

18. Some IDPs from eastern Ukraine report being reluctant to move to western parts of Ukraine because they prefer to stay in the parts of Ukraine closer to their homes and family members who have remained behind. Also, many report fearing that they will not be fully accepted for political reasons in other regions of central and eastern Ukraine.<sup>65</sup> IDPs are increasingly reporting difficulties when trying to rent apartments or when seeking work.<sup>66</sup> Tensions between IDPs and the local population in certain locations in western Ukraine have arisen around a number of issues. Over the summer months, some western Ukrainians perceived themselves as being disproportionately targeted for conscription, stating that IDPs from the East were exempted from military service. IDPs find themselves competing with locals for jobs and for other scarce resources, such as nursery school places. Rental prices in many cities hosting IDPs have risen sharply, leading to resentment by the host community. The conflict has also given rise to political tensions. In some host communities, the local population blames persons from Donetsk and Luhansk oblasts for the crisis and accuses IDPs of politically supporting separatist movements. Negative stories or rumours about IDPs spread quickly through social media. This has further contributed to discrimination against IDPs in employment and housing.<sup>67</sup>
19. As the conflict in the East intensified the Government in Kyiv instituted military mobilization in order to bring additional qualified personnel into the army. Persons targeted for mobilization included persons with past experience as paratroopers, grenade launchers, in artillery, logistical support, and other personnel (including physicians, electricians, mechanics and drivers). The President issued three decrees on “partial mobilization” in 2014 dated 17 March, 6 May and 22 July respectively. In each instance, the partial mobilization was conducted over a period of 45 days. Regular military conscription of 18–25 year-old men was being carried out between May-July and October-November 2014. Under Ukrainian law, conscripts serve for twelve months. Three waves of mobilization are planned in 2015, according to a statement by the Secretary of the Ukrainian National Security and Defence Council.<sup>68</sup>
20. Some Ukrainian men are reported to have opposed military conscription or mobilization for various reasons, including objections to participation in a civil conflict in which war crimes and crimes against humanity are alleged to occur. Others have indicated being afraid of having to participate in hostilities without sufficient protective equipment or weapons; some observers have expressed concerns over a high level of corruption that has led to poor

<sup>63</sup> In spring 2014, Ukraine adopted specific legislation regarding the status of Crimea, which provided a special legal framework for persons displaced from Crimea. See: *Ukraine: 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* [Ukraine], 15 April 2014, <http://www.refworld.org/docid/5379ab8e4.html>.

<sup>64</sup> UNHCR, *Press release, UNHCR welcomes adoption of the law by Ukrainian Parliament to protect people displaced by conflict*, 20 October, <http://unhcr.org.ua/en/2011-08-26-06-58-56/news-archive/1362-unhcr-welcomes-adoption-of-the-law-by-ukrainian-parliament-to-protect-people-displaced-by-conflict>.

<sup>65</sup> As reported by IDPs to UNHCR and partner organizations.

<sup>66</sup> OHCHR, *Report on the human rights situation in Ukraine*, 16 September 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_sixth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf).

<sup>67</sup> Information obtained by UNHCR through protection monitoring and field visits.

<sup>68</sup> Interfax, *Ukraine to see three waves of mobilization in 2015 - in January, April and June – Turchynov*, 22 December 2014, <http://en.interfax.com.ua/news/general/241210.html>.



conditions for recruits.<sup>69</sup> Some IDPs are reportedly reluctant to register as they are afraid of being called for military service in their regions of origin where they are likely to encounter their former neighbours. Furthermore, this could create an insecure situation for any relatives who remain in the region, since they may be perceived as politically supporting the pro-government forces.<sup>70</sup>

21. The law in Ukraine provides for conscientious objection and alternative service on religious grounds for members of religious organizations registered in Ukraine. Conscientious objection is not available on any other grounds. Draft evaders may be subject to a penalty ranging from administrative fine to a prison term of 2 to 5 years.<sup>71</sup> According to the judicial registry, as of 8 December, 32 persons have reportedly been sentenced for evasion of conscription or mobilization in 2014 (compared to 0 in 2013). An analysis of some of these cases (16 cases) conducted in August was reported to have shown that all persons found guilty received administrative fines, community service or suspended sentences.<sup>72</sup>
22. Humanitarian needs are increasing during the winter months as families need extra fuel, food, and clothing to survive the cold. Many IDPs initially thought they would be away from home for only a short period, thus they left with few belongings. IDPs have depended on assistance from relatives, friends and civil society to meet basic needs, but voluntary assistance is drying up.<sup>73</sup> In October 2014, the Cabinet of Ministers introduced a financial assistance program, offering each IDP who qualifies as an “employable adult” IDP 442 Ukrainian Hryvnia (UAH) per month and each IDP who is an “unemployable person” (child, elderly person, disabled person) 884 UAH per month for a period of six months, with certain restrictions applying.<sup>74</sup> As of 12 December 2014, 83,568 families have received this assistance.<sup>75</sup> The government has amended a number of procedures to facilitate IDPs’ access to their pensions and social payments, as well as to other social and economic rights. However, IDPs continue to report administrative difficulties and implementation of the new procedures frequently varies from region to region. With the breakdown in the banking system, many IDPs have reported to have lost access to savings, and that they are unable to pay back their loans.<sup>76</sup> IDPs continue to face difficulties in registering businesses and in fully exercising their employment rights because they cannot obtain their “labour books”—a document normally retained by a person’s official employer—or proof of qualifications. This lack of documentary evidence also hinders them in successfully applying for unemployment benefits in their new area of residence. Many IDPs have no other option but to resort to working informally or part-time. IDPs have also reported that employers and landlords discriminate against them in hiring on

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<sup>69</sup> New York Times, op-ed by Aleksandr Lapko (a senior specialist-assistant in the NATO Liaison Office in Ukraine), *Ukraine’s Own Worst Enemy*, 7 October 2014, [http://www.nytimes.com/2014/10/08/opinion/in-war-time-corruption-in-ukraine-can-be-deadly.html?\\_r=1](http://www.nytimes.com/2014/10/08/opinion/in-war-time-corruption-in-ukraine-can-be-deadly.html?_r=1). See also: Al-Jazeera, *Ukraine president vows to end army corruption*, 3 July 2014, <http://www.aljazeera.com/news/europe/2014/07/ukraine-president-vows-end-army-corruption-20147381129281468.html>, and Kyiv Post, *Global experts say Ukraine needs new security paradigm, end of corruption to fight Russia*, 19 November 2014, <http://www.kyivpost.com/content/kyiv/global-security-experts-say-ukraine-needs-new-security-paradigm-end-of-corruption-to-fight-war-with-russia-372429.html>.

<sup>70</sup> There are allegations of violation of International Humanitarian Law, in particular war crimes, having been committed both by armed groups as well as voluntary battalions, controlled by Kyiv. See e.g. OHCHR, *Report on the human rights situation in Ukraine*, 16 September 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_sixth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf), and Amnesty International, *Ukraine: Summary killings during the conflict in eastern Ukraine*, 20 October 2014, <http://www.amnesty.org/en/library/asset/EUR50/042/2014/en/ca812126-c42c-45f9-9557-d7c4b117be31/eur500422014en.pdf>.

<sup>71</sup> *Ukraine: Criminal Code*, 1 September 2001, <http://www.refworld.org/docid/4c4573142.html>, Articles 335-336.

<sup>72</sup> Legal consultation of Kriviy Rog, Кримінальна відповідальність за ухилення від призову на мобілізацію, August 2014, <http://advocat.dp.ua/publication.html> (in Ukrainian).

<sup>73</sup> As observed by UNHCR and partner organizations through protection monitoring activities.

<sup>74</sup> *Cabinet of Ministers Resolution 505*, 1 October 2014, <http://unhcr.org.ua/en/who-we-help/internally-displaced-people>. An able-bodied adult is eligible for assistance initially for a period of two months, and then receives a reduced amount if s/he fails to seek or find employment. Persons with savings accounts bearing the equivalent of a minimum of ten monthly salaries, with real estate outside the affected region, or with two or more cars are not eligible for the assistance either.

<sup>75</sup> Information obtained from MoSP.

<sup>76</sup> UNHCR, *Profiling and Needs Assessment of Internally Displaced Persons (IDPs)*, 17 October 2014, <http://unhcr.org.ua/attachments/article/971/IDP.pdf>.

political grounds, or because they think IDPs will (or should) return home soon.<sup>77</sup> Ukraine is experiencing deep economic troubles: in 2014, the national currency lost half its value, inflation stands at 20 per cent, and the economy is expected to shrink by 10 per cent by the end of the year.<sup>78</sup> Government ministries have been ordered to cut their 2015 budgets by 25 per cent.<sup>79</sup> These economic pressures have a negative impact on possibilities for IDPs to establish homes and livelihoods outside their regions of origin.

23. IDPs report that they have become increasingly frustrated with their situation, and that many have psychological problems, suffering from stress and trauma related to the loss of relatives, the enduring conflict, and an uncertain future. Women are particularly exposed, as they represent the majority of those who have fled, with their husbands often having stayed behind in the conflict areas. They also report tensions and domestic violence when husbands are not willing to let women and children leave the conflict areas, since leaving those areas is seen as a political statement.<sup>80</sup> NGOs also report that several women have been exposed to conflict-related sexual violence in the conflict areas; however incidents remain under-reported due to the lack of information, and limited assistance is available in these areas.<sup>81</sup> IDPs have access to medical services on the same basis as any other Ukrainian citizen; however, the cost for medication is not covered and IDPs often cannot afford necessary medicines.<sup>82</sup> As regards access to education, IDP children are generally able to access schools, and students have also generally been able to access higher education in their temporary areas of residence.<sup>83</sup>
24. In search of appropriate accommodation, some IDPs have been forced to move several times.<sup>84</sup> Having not been able to find or afford suitable housing or secure employment, some IDPs have reportedly felt compelled to return to their homes, despite the continued insecurity.<sup>85</sup> According to UNHCR estimates, around 7-8 per cent of IDPs are accommodated in collective centres, while the majority live in private accommodation, hosted with friends, relatives or others in the community or renting accommodation themselves. Some of the collective centres are however not suitable for the winter and in order to address this, over 47 centres with the capacity to host 1,200 persons are being urgently renovated.<sup>86</sup> Donors are beginning to support a limited number of vulnerable IDPs with cash-grants, to ensure that they can afford to pay rent for temporary accommodation. There is also an urgent need to

<sup>77</sup> Information available to UNHCR.

<sup>78</sup> The Economist, *Why Ukraine's Economy Is In Deep Trouble*, 1 December 2014, <http://www.economist.com/blogs/economist-explains/2014/12/economist-explains?zid=307&ah=5e80419d1bc9821ebe173f4f0f060a07>, see also: The Economist, *The collapse of Ukraine's economy. Don't chicken out of Kiev*, 15 November 2014, <http://www.economist.com/news/leaders/21632475-throttled-russia-ukraines-economy-needs-more-western-helpspecially-investment>.

<sup>79</sup> Ukrainskaya Pravda, *Ministry of Finance demands that ministries cut 25% of their expenditures for 2015*, 8 December 2014, <http://www.pravda.com.ua/rus/news/2014/12/8/7046865/>.

<sup>80</sup> Information available to UNHCR. See also UNHCR, *Profiling and Needs Assessment of Internally Displaced Persons (IDPs)*, 17 October 2014, <http://unhcr.org.ua/attachments/article/971/IDP.pdf>.

<sup>81</sup> OCHA, *Ukraine Situation Report number 13*, 26 September 2014, [http://www.humanitarianresponse.info/system/files/documents/files/OCHA%20Ukraine%20Situation%20Report%2026%20September%202014\\_1.pdf](http://www.humanitarianresponse.info/system/files/documents/files/OCHA%20Ukraine%20Situation%20Report%2026%20September%202014_1.pdf).

<sup>82</sup> *Ukraine: On ensuring of rights and freedoms of internally displaced persons*, [http://unhcr.org.ua/attachments/article/1231/IDPlawENG%20\(3\).doc](http://unhcr.org.ua/attachments/article/1231/IDPlawENG%20(3).doc), Art 9, part 1, para 8-9. This law stipulates that IDP have the right “to medical supply in cases and in accordance with procedures provided in legislation”, [and] “necessary medical assistance in state and communal health care institutions”.

<sup>83</sup> It is reported that some children are not enrolled in school as their parents have not registered them since they expect to be further displaced or to return home. UNHCR, *Profiling and Needs Assessment of Internally Displaced Persons (IDPs)*, 17 October 2014, <http://unhcr.org.ua/attachments/article/971/IDP.pdf>; see also: UNICEF, *Conflict in Ukraine leaves almost 150 schools closed*: UNICEF, 19 December 2014, <http://reliefweb.int/report/ukraine/conflict-ukraine-leaves-almost-150-schools-closed-unicef>.

<sup>84</sup> UNHCR, *Profiling and Needs Assessment of Internally Displaced Persons (IDPs)*, 17 October 2014, <http://unhcr.org.ua/attachments/article/971/IDP.pdf>.

<sup>85</sup> UNHCR, *Profiling and Needs Assessment of Internally Displaced Persons (IDPs)*, 17 October 2014, <http://unhcr.org.ua/attachments/article/971/IDP.pdf>.

<sup>86</sup> The majority of the collective centres are so called sanatoria, or summer-camp shelters, without heating systems, on the south-east coast of Ukraine (Odessa, Berdyansk, Mariupol). The centres in Kharkiv, Dnipropetrovsk, Zaporizhzhia, Mariupol and accessible parts of Donetsk and Luhansk will be renovated. UNHCR is assisting local NGOs and the authorities with the renovation of the collective centres.

support those who have returned to repair their houses.<sup>87</sup> As of 27 October, local authorities estimated that 135,000 IDPs had returned to their former residence, mainly in the northern part of Donetsk where the Government has regained control.<sup>88</sup> However, as the security situation remains volatile and property has been destroyed, return is difficult for many. With the arrival of winter, some people are only returning for short periods, in order to get warm clothing, pick up belongings and to check the situation of relatives and the status of private property.<sup>89</sup> Although the Government has now adopted a legislative framework which in theory should facilitate access to temporary housing and durable solutions, resources to ensure implementation have not yet been allocated and bills for collective centres are not yet systematically being paid.<sup>90</sup> UNHCR, as well as other donors, are assisting the Government to ensure that winterized accommodation is available for both IDPs and returnees, and that IDPs with specific needs are supported with core non-food relief items.<sup>91</sup>

25. According to figures from NGOs, some 6,000 Roma have been displaced due to the conflict. Displaced Roma are said to be particularly vulnerable, as they were already marginalized in society before, and irrespective of, the conflict.<sup>92</sup> Since many Roma have never held identity documentation, or have lost their documentation, they are often unable to register as IDPs and access government assistance.<sup>93</sup> Roma IDPs have also reported discrimination with regards to accommodation; they generally must seek accommodation with other members of the in situ Roma community.<sup>94</sup>
26. OHCHR has noted particular concern about the situation of individuals of diverse sexual orientations and gender identities in the regions controlled by armed groups. The ‘Luhansk people’s republic’ has adopted an order criminalizing homosexuality with a prison term of two to five years.<sup>95</sup> 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.<sup>96</sup>

<sup>87</sup> According to government sources, as of 15 September 1,230 private houses had been destroyed in Donetsk and Luhansk region, affecting some 6,618 families, see UNHCR, *Profiling and Needs Assessment of Internally Displaced Persons (IDPs)*, 17 October 2014, <http://unhcr.org.ua/attachments/article/971/IDP.pdf>.

<sup>88</sup> Ukrainian authorities have reported that 90% of former IDPs have returned to Slovyansk, and that some 40% have returned to Kramatorsk city. See: UNHCR, *Profiling and Needs Assessment of Internally Displaced Persons (IDPs)*, 17 October 2014, <http://unhcr.org.ua/attachments/article/971/IDP.pdf>, p.4.

<sup>89</sup> Ukrainian authorities report that more than 39,985 small and medium businesses have ceased activity due to the fighting in the Donbas region, more than 30,000 residents of Donbas do not have work, and even if the hostilities would cease, many would not be able to return to jobs and the launching of business activities would require significant time and resources. See OHCHR, *Report on the human rights situation in Ukraine*, 16 September 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_sixth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf).

<sup>90</sup> For information regarding the legal framework for IDPs see: UNHCR, *Who we help. Internally Displaced People*, <http://unhcr.org.ua/en/who-we-help/internally-displaced-people>.

<sup>91</sup> Key reception areas in Kharkiv, Dnipropetrovsk, Zaporizhzhia, Donetsk and Luhansk regions are currently the focus for shelter assistance. For more details on the UN’s planned response to the humanitarian situation in Ukraine, see Ukraine Humanitarian Country Team, *Ukraine Strategic Response Plan 2015*, 8 December 2014, <http://reliefweb.int/report/ukraine/ukraine-strategic-response-plan-2015>.

<sup>92</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 November 2014, [http://www.un.org.ua/images/stories/FINAL\\_OHCHR\\_seventh\\_report\\_Ukraine\\_20.11.14\\_before\\_launch.pdf](http://www.un.org.ua/images/stories/FINAL_OHCHR_seventh_report_Ukraine_20.11.14_before_launch.pdf). See also: 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?download=true>.

<sup>93</sup> 600 Roma previously residing in Donetsk region have been displaced to Kharkiv. 51% of them are said to be undocumented either because of loss of documents or absence of any previous registration, leaving the population at risk of becoming stateless. Information obtained by UNHCR during a meeting with the NGO “Gorenje” on 11 August 2014.

<sup>94</sup> OSCE / ODIHR, *Situation Assessment Report on Roma in Ukraine and the Impact of the Current Crisis*, August 2014, <http://www.osce.org/odihr/124494?download=true>.

<sup>95</sup> OHCHR, *Report on the human rights situation in Ukraine*, 15 November 2014, [http://www.un.org.ua/images/stories/FINAL\\_OHCHR\\_seventh\\_report\\_Ukraine\\_20.11.14\\_before\\_launch.pdf](http://www.un.org.ua/images/stories/FINAL_OHCHR_seventh_report_Ukraine_20.11.14_before_launch.pdf).

<sup>96</sup> A local NGO reported difficulties in finding housing for IDPs who are LGBT. See also Al-Jazeera *Despite a move toward Europe, LGBT Ukrainians face new hurdles*, 5 July 2014, <http://america.aljazeera.com/articles/2014/7/5/despite-a-move-toward-europe-lgbtukrainiansfacenewhurdles.html>.

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

27. All claims of persons from Ukraine filing international protection claims should be processed in fair and efficient procedures in accordance with existing asylum or refugee status determination (RSD) frameworks.<sup>97</sup> For some individuals whose claim had been rejected previous 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 activists, journalists 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.<sup>98</sup> 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.
28. 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.<sup>99</sup> 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

29. 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 proposed IFA/IRA.<sup>100</sup> In the current circumstances in Ukraine, an IFA/IRA is likely to be relevant for many individuals in areas of the country not affected by recent events.<sup>101</sup>

<sup>97</sup> Applicable frameworks include that of the 1951 Convention relating to the Status of Refugees [*Convention Relating to the Status of Refugees* (“1951 Convention”), 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, <http://www.refworld.org/docid/3be01b964.html>] and its Protocol [*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>], 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)* (“Qualification Directive”), 13 December 2011, <http://www.refworld.org/docid/4f06fa5e2.html>] or other applicable regional frameworks; in the unlikely event that asylum-seekers from Ukraine would seek international protection in other parts of the world, other regional frameworks would apply; the OAU Convention [*Convention Governing the Specific Aspects of Refugee Problems in Africa* (“OAU Convention”), 10 September 1969, 1001 U.N.T.S. 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>]. Unlike the OAU Convention, the Cartagena Declaration is not a binding legal instrument; its provisions acquire the force of law only through incorporation in national legislation.

<sup>98</sup> 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>.

<sup>99</sup> UN High Commissioner for Refugees, *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>.

<sup>100</sup> 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 IFA is considered in the context of determining eligibility for subsidiary protection.

<sup>101</sup> 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, See previous footnote, paras. 9 – 21.

30. If 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.<sup>102</sup> 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.<sup>103</sup> While Ukraine’s legal framework and assistance programs provide for protection of many basic rights, for some persons, depending on the individual circumstances of the case, the “reasonableness” criteria may not be met. **First**, some individuals may in practice be unable to access accommodation, livelihoods and essential services.<sup>104</sup> Such individuals may lack support from family or community in the proposed area of relocation. As described, IDPs have also reported having faced overwhelming administrative difficulties, preventing their enjoyment of rights under Ukrainian law. Discrimination and the country’s deteriorating economic conditions are considered to have compounded their difficulties in establishing themselves.<sup>105</sup> **Second**, minority groups report facing particular challenges in accessing assistance. Undocumented Roma cannot access government assistance programs, and social discrimination has, according to reports, prevented them from receiving community support.<sup>106</sup> Also, due to widespread discrimination, individuals of diverse sexual orientations and gender identities face additional difficulties in accessing assistance.<sup>107</sup> **Third**, while the government has put limited assistance programs in place (e.g., the financial assistance program), the scope and scale of assistance is likely to be insufficient to meet the needs of all individuals or families. For example, persons with complex medical needs may not be able to access life-saving treatments. Given the shortage of drugs in Ukraine for patients with HIV or drug-resistant tuberculosis, these individuals may not be able to access life-saving medication in the country.<sup>108</sup> Furthermore, specialized medical or psychological services for survivors of torture and violence are generally not accessible because of high cost and limited availability.<sup>109</sup> Similarly, comprehensive services for persons with disabilities are often inaccessible in regions of displacement, due to short supply of such services.<sup>110</sup> Finally, with respect to access to housing, education, and employment opportunities being a challenge for many IDPs throughout the country, displaced persons with disabilities face even more obstacles in this regard.<sup>111</sup> To assess the reasonableness of the IFA/IRA, adjudicators need to take into account these elements, as well as the scale of internal displacement in the area of prospective relocation, and the living conditions of IDPs.

<sup>102</sup> 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. 25-26.

<sup>103</sup> 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. 24, 27-30.

<sup>104</sup> See above, for example paras. 18, 22-24 (of this Ukraine Protection Considerations – Update II document).

<sup>105</sup> See above, for example paras. 18, 22-24.

<sup>106</sup> See above, para. 25.

<sup>107</sup> See above, para. 26.

<sup>108</sup> “The threat of interrupted treatment of HIV-positive and multi-drug resistant tuberculosis patients in all regions as of 1 January 2015, due to the non-completed tenders for the purchase of the live-saving medication. As of 31 October, only 25 per cent of the required amount of medication had been purchased.... [D]iscontinuation of treatment is life-threatening for more than 70,000 patients and may lead to the uncontrolled spread of epidemics.” OHCHR, *Report on the human rights situation in Ukraine*, 15 November 2014, [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_seventh\\_reportUkraine20.11.14.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_seventh_reportUkraine20.11.14.pdf).

<sup>109</sup> United Nations Humanitarian Country Team, *Humanitarian Needs Overview*, December 2014, pp. 14-15, [http://reliefweb.int/sites/reliefweb.int/files/resources/2015\\_HNO\\_Ukraine\\_20141205\\_0.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/2015_HNO_Ukraine_20141205_0.pdf).

<sup>110</sup> For example, UNHCR has seen lists of available housing compiled at the municipal level; very few landlords or collective centers are ready to accept persons with disabilities.

<sup>111</sup> The situation of persons with disabilities in Ukraine was poor even before the conflict; see the following report, noting poor accessibility of buildings, labour discrimination, lack of access to courts, and limited accessibility (only 20%) of educational institutions for persons with disabilities. See: Ukrainian Helsinki Group, *Human Rights in Ukraine – 2013*, <http://helsinki.org.ua/index.php?id=1398092466>.



### ***Sur Place* claims by Nationals and Habitual Residents of Ukraine**

31. An increase of *sur place* asylum applications by Ukrainian nationals has been reported in several States, including several EU countries and the Russian Federation.<sup>112</sup> 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, 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**

32. Several European countries have designated Ukraine as a so-called “safe country of origin”. This means that applications for international protection by Ukrainian nationals or habitual residents of Ukraine may be dealt with in an accelerated procedure with reduced procedural safeguards. In particular, the asylum-seeker may not be allowed to file or await the outcome of an appeal in the country where (s)he is seeking asylum (non-suspensive appeal). The safe country of origin designation may also negatively impact the reception conditions for asylum-seekers originating from such a country. 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.

### **Refugees and Asylum-Seekers (Third Country Nationals)**

33. Depending on how the situation develops, third country nationals may also choose or be compelled to leave Ukraine, as a result of recent developments or in anticipation of a further escalation of the conflict. Among these persons, there may be those who were recognized as refugees or registered as asylum-seekers in Ukraine. Afghan and Syrian nationals are among the largest groups of asylum-seekers and refugees in Ukraine.<sup>113</sup> 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**

34. 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

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<sup>112</sup> Information available to UNHCR.

<sup>113</sup> See UNHCR, *UNHCR Mid-Year Trends 2014*, <http://unhcr.org/54aa91d89.html>, and its annexes (Excel tables) at <http://www.unhcr.org/statistics/mid2014stats.zip>. Detailed updated statistics available to UNHCR.

considered as a safe third country, on account of identified shortcomings in the national asylum system.<sup>114</sup> UNHCR requests States to consider asylum applications from third country 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**

35. UNHCR would, in the current circumstances, advise caution as regards 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**

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

UNHCR  
15 January 2015

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<sup>114</sup> UN High Commissioner for Refugees (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>.