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Summary Findings
from the Report on the results of monitoring of the National Human Rights Strategy's Implementation in the period December 1, 2015 – December 1, 2017¹
in part of ensuring the rights of internally displaced persons and conflict-affected population

Introduction

Two years ago, the National Human Rights Strategy and the Action Plan for its enforcement were approved. However, the analysis of measures envisaged for the period of the 4th quarter of 2015 – 3rd quarter of 2017 demonstrates that the majority of them were not fully implemented, while it is impossible to evaluate implementation of others because the provided information is incomplete or not substantive. In addition, the data from the summarized report of the authorities is scattered, thus, there is no possibility of an objective assessment. This indicates a formal and outright approach to the Action Plan's implementation. The activities are mostly not implemented within the specified timeframe, and actual information on those measures that were executed during the reporting period is not provided in future reports. Moreover, the deficiencies, highlighted by the Ukrainian Parliament Commissioner for Human Rights and the Public Monitoring Platform in previous reports, have not been taken into account and have not been eliminated.

This report describes the situation relating new human rights challenges caused by the conflict. Thus, among analyzed directions are:

- ensuring the rights of anti-terrorist operation's participants;
- protection of the rights of internally displaced persons;
- release of prisoners of war and restoration of their rights;
- taking necessary measures to protect the rights of persons residing in the temporarily occupied territory of Ukraine;
- ensuring rights of citizens of Ukraine residing in the settlements of Donetsk and Luhansk oblasts, on the territory of which public authorities temporarily do not exercise powers or exercise them not to the full extent;

As well as relevant chapters concerning:

- ensuring the right to life;
- ensuring freedom of thought and speech, expression of views and beliefs, access to information and free development of personality;
- ensuring the rights of the child;
- raising awareness on human rights issues.

¹ The Report is the result of the joint work of the Public Platform for Monitoring the Implementation of the National Human Rights Strategy, which currently unites efforts of around 70 participants under the Memorandum of Cooperation between civil society representatives and the Ukrainian Parliament Commissioner for Human Rights. *More details are available at <http://hro.org.ua>.*

ENSURING THE RIGHTS OF ANTI-TERRORIST OPERATION'S PARTICIPANTS

Strategic objective: to create appropriate conditions for the realization and protection of rights of participants of anti-terrorist operation



- the issue of granting the status of a participant of military operations to persons engaged in volunteer units that are not part of officially recognized military forces is still unresolved;
- the constitutional right to replace military service with an alternative civilian service when performance of military duty conflicts with a person's religious beliefs has not been ensured;
- disabled participants of the anti-terrorist operation and the Revolution of Dignity have not been provided with an opportunity to get new specialty at the government's expense or at their own expense with subsequent reimbursement;
- demobilized ATO participants have not been provided with free of charge in-class or online training courses, free teaching materials and other means to prepare themselves for admission to higher education institutions and vocational and technical schools.

PROTECTION OF THE RIGHTS OF INTERNALLY DISPLACED PERSONS

Strategic objective: to ensure appropriate conditions for realization and protection of the rights and freedoms of internally displaced persons



- The Ukraine's Ministry on Affairs of the Temporarily Occupied Territories and Internally Displaced Persons is established;



- still unresolved is the issue of lodging for those disabled persons and children with visual and motor impairments displacing from temporarily occupied territories and/or anti-terrorist operation zone, at the premises of institutions and facilities suitable for accommodating (servicing) such persons for a certain period of time;
- a draft law on the right to vote for internally displaced persons, particularly in regards to exercising this right during local elections on the grounds of a passport and an IDP certificate, has not been submitted for consideration of the Ukraine's Cabinet of Ministers;
Meanwhile, draft laws of people's deputies have been registered in the Parliament. The government's stance regarding the draft laws is unclear.
- the issue of providing IDPs with compensation for damaged property is not being addressed;
- review of draft legislative acts on the rights of IDPs to ensure compliance with the UN Guiding Principles on Internal Displacement has not been implemented.

RELEASE OF PRISONERS OF WAR AND RESTORATION OF THEIR RIGHTS

Strategic objective: to release prisoners of war and ensure their rehabilitation



- Information campaign is being conducted abroad in order to put pressure on the Russian Federation for the release of Ukraine citizens forcibly kept in detention facilities in the territory of Russia and temporarily occupied Autonomous Republic of Crimea;



- no draft law on protecting the rights and freedoms of civilian captives and their families has been elaborated;
- no conditions have been created for Ukraine's law enforcement and other state agencies (that might be in possession of relevant information) for assisting with the search for the exculpatory evidence regarding persons forcibly kept in detention facilities in Russia and temporarily occupied Autonomous Republic of Crimea without any legal grounds and providing it for their legal defense.
- no social, psychological and other support is being provided to the families of persons forcibly kept in detention facilities without any legal grounds in Russia and temporarily occupied Autonomous Republic of Crimea;
- no social and psychological rehabilitation is being provided to civilians and servicepersons (combatants) taken as hostages/prisoners by the terrorist groups of "DPR" and "LPR" in connection with the events in eastern Ukraine; no opportunity of free legal aid delivery to former hostages/prisoners is envisaged, and no steps are being taken to ensure their personal safety.

TAKING NECESSARY MEASURES TO PROTECT THE RIGHTS OF PERSONS RESIDING IN THE TEMPORARILY OCCUPIED TERRITORY OF UKRAINE

Strategic objective: to ensure rights and freedoms of the said group of persons



- the right to education for citizens residing in temporarily occupied territories is (mainly) guaranteed;



- an administrative (extrajudicial) procedure for state registration of civil status acts taken place in temporarily occupied territories of Ukraine has not been established;
- discriminatory provisions in the Law of Ukraine "On the free economic zone of Crimea" toward persons, whose place of residence is registered in temporarily occupied territories, have not been removed;
- no draft law on the simplified procedure for custom clearance of humanitarian aid when crossing custom border and demarcation line in accordance with the model law on humanitarian aid during crises has been elaborated.

ENSURING RIGHTS OF CITIZENS OF UKRAINE RESIDING IN THE SETTLEMENTS OF DONETSK AND LUHANSK OBLASTS, ON THE TERRITORY OF WHICH PUBLIC AUTHORITIES TEMPORARILY DO NOT EXERCISE POWERS OR EXERCISE THEM NOT TO THE FULL EXTENT

Strategic objective: to ensure rights and freedoms of the said group of persons



- relocation procedure for disabled persons, persons whose disability may yet be confirmed, and persons suffering from serious illnesses has been simplified;
- the right to education for citizens of Ukraine residing in the settlements of Donetsk and Luhansk oblasts, on the territory of which public authorities temporarily do not exercise powers or exercise them not to the full extent, is (mainly) guaranteed;
- a Methodology for planning evacuation procedures has been developed and approved by the Ministry of Interior of Ukraine, with a separate section dedicated to the evacuation of population from a war zone;



- pensions and other social benefits are not being paid to the citizens of Ukraine residing in the settlements of Donetsk and Luhansk oblasts, on the territory of which public authorities temporarily do not exercise powers;
- still existing corruption risks related to the crossing of the demarcation line by persons forced to abandon their place of residence or made it by their own will as a result of or to avoid negative consequences of the armed conflict, temporary occupation, widespread cases of violence, gross human rights violations and natural or man-made disasters, when such persons lack necessary grounds and papers;
- citizens of Ukraine residing in said settlements of Donetsk and Luhansk oblasts are not being notified about safe conditions existing for the voluntary displacement of population to other regions of Ukraine;
- the right of citizens choosing to relocate to other regions of Ukraine and citizens residing in said settlements of Donetsk and Luhansk oblasts to make use of medical services, washrooms, parenting rooms, bomb shelters and notification system available at border checkpoints is not guaranteed.

Information on implementation of the measures within the directions listed below is given selectively – only in the part of protection of the human rights related to the conflict.

ENSURING THE RIGHT TO LIFE

Strategic objective: to ensure appropriate guarantees to protect the right to life and availability of legal remedies and mechanisms for effective investigation of violations of the right to life



- The draft law “On compensation to victims of violent intentional crimes” is developed. The draft law provides for financial compensation to be paid by the government in the event of physical harm to or death of a person caused as a result of violent intentional crimes committed in the territory of Ukraine;
- draft law “On amending the Criminal Code and Criminal Procedure Code of Ukraine to institute criminal liability for crimes against humanity”, which provides for criminal liability for crimes against humanity in order to protect and uphold the rights of civilian population (including under conditions of armed conflicts);



- Interdepartmental Commission on Application and Implementation of International Humanitarian Law in Ukraine is created. The Commission is being an advisory body within the Cabinet of Ministers to promote the fulfillment of international legal obligations of Ukraine in the field of international humanitarian law.



However, the Commission has not started working yet.



- there exist neither mechanism for evacuating population from the warzone nor a legislative act that would clearly establish the procedure to be followed by the personnel of facilities located in territories beyond GOU's control, where persons in custody, psychiatric care or foster care are housed (penitentiary facilities, psychiatric facilities, boarding schools, etc.).

ENSURING FREEDOM OF THOUGHT AND SPEECH, EXPRESSION OF VIEWS AND BELIEFS, ACCESS TO INFORMATION AND FREE DEVELOPMENT OF PERSONALITY

Strategic objective: to ensure free flow of information and freedom of expression of views and beliefs



- no information policy under conditions of armed conflicts has been developed;
- an editorial policy of the media outlets has not been properly adjusted to comply with international media standards under conditions of armed conflicts.

ENSURING THE RIGHTS OF THE CHILD

Strategic objective: to create favorable environment for education, training, development of the child and effective system to ensure the realization of his/her rights; to improve the state mechanism to ensure rights of the child



- amendments introduced to the Evacuation procedures under threat of or during emergencies and Methodology for planning evacuation procedures do not take into account special circumstances of evacuating children, particularly from boarding schools;
- no efficient mechanism for identifying children directly participating in military actions or armed conflicts has been developed and implemented.

RAISING AWARENESS ON HUMAN RIGHTS ISSUES

Strategic objective: to ensure access to information to everyone and obtaining knowledge about rights, freedoms and duties of a man and citizen, and mechanism for realization and protection of the rights and freedoms



- instructions regarding the compliance with the norms of international humanitarian law in the Armed Forces of Ukraine have been adopted;
- by the order of the Commander of the National Guard of Ukraine, "Fundamentals of international humanitarian law" and "Fundamentals of human rights" have been added to the curriculum of cadets (students) enrolled in 2017 as part of the military and special training for the National Guard forces;
- on February 7-8, 2017, a training for Donetsk police personnel (25 participants) entitled "International humanitarian law and international rules and standards of law enforcement" was held with the support of the International Committee of the Red Cross, where such issues as police ethics, use of force, arrests, search, and seizure were discussed.

Conclusions and recommendations

The main problem the Action Plan's non-implementation are:

- lack of understanding of the Action Plan contents by the performers, the central executive bodies, and low qualification level of staff;
- reluctance to use the expert potential of the human rights defenders;
- isolation (autonomy) of the Action Plan from other various plans and programs, which exist parallel thereto;
- failure to take into consideration the decentralization processes during the Action Plan's development;
- monitoring of the Strategy and the Action Plan's implementation is based on the indicators designed for the Action Plan, but not for the Strategy;
- citizens and state officials are actually not aware of the Strategy and Action Plan and, in general, demonstrate low level of human rights understanding; moreover, negative stereotypes prevail in the today's society;

General recommendations for all directions of the National Human Rights Strategy are as follows:

- To review and amend the Action Plan in order to conform its activities to the current needs, relevant implementers and expected results within the Strategy.
- To ensure the timely implementation of the planned activities.
- To assess the financial needs and allocate funds from the State Budget of Ukraine for the relevant year to finance the Action Plan's implementation.

Recommendations for the directions of the National Strategy relating to protection of human rights amid the conflict:

Ensuring the rights of ATO participants

- failure to comply with certain measures due to the lack of funds from the State budget; therefore, when amending the Action Plan, it is necessary to calculate the cost of all measures;

Protection of IDPs rights

- it is necessary to expand and/or revise the list of those responsible for the implementation of the specific tasks within the Action Plan due to the establishment of the Ministry of Temporarily Occupied Territories and IDPs;
- to ensure the legislative mechanism for implementing the electoral rights by IDPs;
- it is necessary to foresee the possibility of revising the amount of material assistance depending on the subsistence minimum established by the law on the Ukraine's state budget for the relevant year;
- in order to meet the vital needs of internally displaced persons, it is necessary to allocate funding for the "Dostupne Zhytlo" [Affordable Housing] Program in 2018, to simplify the procedure for obtaining such housing for IDPs, in particular, to exclude the certificate on the registered place of residence from the list of necessary documents;
- due to the expiration of the Comprehensive State Program "On support, social adaptation and reintegration of citizens of Ukraine internally displaced from the temporarily occupied territory of Ukraine and anti-terrorist operation conduct area to other regions of Ukraine" by the end of 2017, there is a need to amend the tasks related to the development of the Comprehensive State Program²;

² As an option, we propose to envisage the task relating to finalization of the Strategy for Integration of IDPs and Implementing Durable Solutions to Internal Displacement for the period until 2020, which has been

Release of prisoners of war and restoration of their rights

- to ensure the implementation of Article 11 of the Law of Ukraine “On social and legal protection of servicemen and their family members” in terms of providing compulsory free medical and psychological rehabilitation of servicemen, combatants and persons of equivalent status, persons dismissed from military service, persons who directly participated in the anti-terrorist operation or performed military-combat tasks in extreme (combat) conditions;
- to amend the Action Plan in accordance with the rules of IHL, in particular:
 - ✓ to determine the status, rights and guarantees of persons protected by IHL;
 - ✓ on the basis of rules of international humanitarian law and international human rights law, to develop a State Strategy to release Ukrainian citizens who are under the control of the Russian Federation and/or its agents as a result of the armed conflict.

Taking necessary measures to protect the rights of persons residing in the temporarily occupied territory of Ukraine

- to supplement the Action Plan with a wider list of accidents that cause severe or fatal consequences (in particular, injured and wounded persons, missing and dead persons, destroyed as well as damaged property, accidents etc.);
- to ensure the full implementation of measures to protect the right to education for persons residing in the temporarily occupied territory;

Ensuring rights of citizens of Ukraine residing in the settlements of Donetsk and Luhansk oblasts, on the territory of which public authorities temporarily do not exercise powers or exercise them not to the full extent

- to introduce a mechanism in order to exempt the specified category of citizens from the state final attestation;
- to assess the expediency of restoring the movement of public passenger transport through the contact line;

Ensuring the right to life

- to ensure the activities of the Interdepartmental Commission on the Application and Implementation of International Humanitarian Law in Ukraine;
- to support the amendments to the Criminal Code of Ukraine and, if necessary, to other normative legal acts to comply with IHL rules.

The U.S. Agency for International Development (USAID) Human Rights in Action Program supports the work of the Ukrainian Helsinki Human Rights Union in part of ensuring the rights of internally displaced persons and conflict-affected population.

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approved by the Cabinet of Ministers of Ukraine on November 10, 2017. The members of the Interdepartmental working group on the drafting laws and legislative acts to improve the national legislation of Ukraine regarding the protection of the human rights of internally displaced persons should be involved into the process. Moreover, the efficient Action Plan for the Strategy should be developed in order to reach the strategic goal of the said thematic direction.