

HOUSING, LAND AND PROPERTY (HLP) TECHNICAL WORKING GROUP



HOUSING, LAND AND PROPERTY DEFINITION

Housing, land and property (HLP) are complex concepts that include all types of assets: ownership, tenancy, cooperative dwelling, customary land tenure ownership and use, informal sector dwelling and squats ownership without secure tenure. Housing, Land and Property rights include a range of statutory and customary rights related to the right to use, control, transfer and enjoy Housing, Land and Property assets. It is very often a key protection concern during and after conflict, and it is crucial that this is addressed by parties to the conflict and humanitarian

The International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 11 recognizes “The right of everyone to an *adequate standard of living* for himself and his family, including adequate food, clothing and *housing*, and to the *continuous improvement of living conditions*.”

CURRENT SITUATION

The HLP rights of the population in eastern Ukraine have been acutely affected by the conflict, both in terms of the destruction, unauthorized use and confiscation of their land and property in the areas near the contact line or in non-government controlled areas and their tenuous security of tenure in host communities. There are chronic housing needs across Ukraine which have been amplified by displacement, with a severe shortage of adequate accommodation in the areas with the highest influx of IDPs¹. Most humanitarian actors have not been able to operate in the areas controlled by armed groups since July 2015, and there is no comprehensive assessment of the extent of property destroyed and/or damaged as a result of the conflict. According to the Ukrainian authorities more than 6000 residential houses were destroyed or damaged in each Donetsk and Luhansk oblasts² GCA. During Participatory Assessment undertaken by UNHCR IDPs reported increased barriers to adequate housing. For those in frontline communities, basic life-supporting services, including electricity, housing, infrastructure and water supply, have been damaged or disrupted.

¹ Norwegian Refugee Council, “Housing, Land and Property (HLP) Rights of Displaced and Conflict-Affected

² <http://donbass.comments.ua/news/116447-skolko-potratali-vosstanovlenie.html>

MAIN HLP CONCERNS

- **Contradictory legal and policy framework in GCA:** the legal framework relating to a range of IDPs issues, including HLP rights, is complex and has gaps in scope and application. Not all of the laws have been adopted and a number remain in draft form. Although most of the required provisions already exist in Ukraine's IDP law³, some are contradicted by previously adopted resolutions that are still widely applied. The continued application of the geographically restricted definition of an IDP is the most striking example.
- **Lack of sufficient housing for IDPs:** In addition to chronic housing needs across the whole of Ukraine, and an acute shortage of adequate accommodation in the areas with the highest influx of IDPs, there is a severe deficiency of adequate facilities allocated by the municipal authorities for temporary accommodation of IDPs.
- **Possibility of losing property in NGCA:** On 3 June 2015, the Donetsk *de facto* authorities approved a Temporary Order that provides procedures for the mandatory re-registration of property rights in Donetsk NGCA. It is possible that property which is not re-registered with *de facto* authorities will be considered 'ownerless' and therefore liable to expropriation. In June 2015, the *de facto* head of the Luhansk authorities announced that the registration of property is underway and that anyone not registering their property within 45 days of notification could be subject to having their property confiscated. Moreover, IDPs who have left behind property which is mortgaged face uncertainty over the continuation of mortgage repayments. They are also concerned about losing social housing rights in NGCA for failing to pay utility bills in absentia.
- **Military occupation of civilian property and mine/UXO contamination:** The expropriation of property within frontline communities appears to be taking place in GCA, according to some respondents who reported losing access to their properties in these areas. The extent to which expropriation is occurring in NGCA is not yet known. Furthermore, the presence of landmines and unexploded ordnance (UXO) in areas near the contact line presents a significant risk to civilians trying to access their property.
- **Need for more reconstruction:** In conflict-affected areas, in particular in densely populated urban areas with a concentration of apartment buildings, damage is not repaired in a timely manner, in part due to lack of resources in NGCA and continued lack of accreditation to international humanitarian organizations in Donetsk.
- **Lack of security of tenure for IDPs in rented accommodation:** the majority of landlords are unwilling to enter into formal rental agreements, preferring informal arrangements, because they fear that formalisation will result in their rental income being taxed, invite penalties for tax avoidance and open the door for quality checks and controls.
- **Lack of access to legal services:** The absence of functioning Ukrainian courts and notarial services in NGCA means that any transactional or registration requirements involving property (i.e. sales, purchases, rentals, disputes and inheritance) need to be concluded by both parties in GCA, in order to be legally recognized by the Government.

PRIORITIES OF THE HLP WORKING GROUP FOR 2016

- **Conduct assessment on HLP issues** focusing on the most vulnerable groups including in GCA and NGCA
- **Provide technical support and guidance** to shelter actors and partners providing counseling through hotlines.
- **Systematize information collection** on HLP and provide sex and age disaggregated data whenever possible.
- **Monitor the situation** in NGCA and inform the discussions taking place in the Minsk format.
- **Create a register** of available temporary social housing for each oblast
- **Carry out trainings** on HLP issues for stakeholders
- Ensure that the **cross-cutting nature** of HLP issues is addressed by having the HLP technical working group sit within both the Protection and Shelter clusters with actors from both Clusters

The key information has been provided by Norwegian Refugee Council (NRC) [contact: nataliya.dymkovska@nrc.no]

³ Law "On the Rights and Freedoms of Internally Displaced People", 20 October 2014