



Input to the Research on “Good Practices in carrying out Collective Advocacy to strengthen protection”

I - Main Platforms to coordinate collective advocacy efforts:

Protection Cluster and HCT Protection Strategy Working Group

In Ukraine, the Humanitarian County Team (HCT) established a Protection Strategy Working Group (PSWG), aimed at supporting focused and targeted advocacy messages by the HCT on key priority areas. PSWG is co-chaired by the Protection Cluster, UNHCR, OHCHR and local NGO Right to Protection, and has other UN agencies, INGOs and national NGOs amongst its members. The PSWG identifies and raises the most urgent and severe protection risks; generate consistent messages for collective advocacy efforts; and inform high-level strategic decision-making. This allows the HCT and protection partners 1) to share and utilise existing evidence base for advocacy purposes; 2) continue building the capacity of national civil society in advocacy; and 3) leverage complementary actions with non-humanitarian actors, such as OSCE and Council of Europe, to raise the general awareness of the crisis challenges and risks faced by the civilian population.

The Protection Cluster and its protection partners dedicate significant efforts and resources to advocacy and law and policy development. The country has been re-shaping its legal framework and conducting a series of institutional reforms since 2014, which required a scale up of technical assistance to the Parliament and line Ministries, both on the drafting of specific normative documents related to internal displacement and protection of the conflict-affected population, and also to ensure that IDPs and affected populations are included in other relevant legal/policy frameworks. The key thematic areas prioritized by protection partners for law and policy development are related to a) facilitating freedom of movement for the conflict-affected population through the contact line separating the Government-Controlled Area (GCA) from Non-government Controlled Area (NGCA), including alternative mechanisms for remote access to administrative services and social protection, such as social benefits and pensions; b) de-linking IDP registration from access to rights and services; c) improvements of the compensation mechanism for destroyed/damaged housing; d) access to housing programmes for IDPs; e) and access to birth registration and death certificates for NGCA residents. The Cluster issues Thematic Advocacy Notes including key messages and recommendations (including for law and policy development), as well as monthly Fact Sheets with trends and key protection issues that highlight challenges and opportunities on the implementation of legal frameworks.

The Protection Cluster has in its structure a Technical Working Group on Housing, Land and Property (HLP TWG), led by the Norwegian Refugee Council, which serves as a platform for joining efforts of the protection organizations to advocate HLP-related issues. One of the key achievements of TWG is the adoption by the Government in 2020 the mechanism on compensation for housing destroyed as a result of hostilities. TWG is closely engaging with the Ministry of Reintegration of TOT and provides technical expertise in drafting legislative acts and proposes amendments to existing legislation in order to strengthen the protection of the conflict-affected population. Thus, in December 2021 the Government adopted amendments to the compensation procedure based on the recommendations of the TWG.

Engagement with the state institutions

Over the eight years of the conflict, humanitarian organizations established close working relations with the Ukrainian authorities at all levels, allowing to advocate changes in conflict-related policies and legislation. Humanitarian organizations are the members of regular and ad hoc working groups established under various state institutions, including the Ombudsman Office, Parliamentary Committee on Human Rights, Ministry of Reintegration of TOT, Ministry of Justice, etc. Collective engagement in the work of technical and advisory bodies strengthens advocacy efforts bringing the key messages and recommendations into the spotlight of decision-makers. In 2021, humanitarian organizations joined the working group on the development of the IDP Strategy under the Ministry of Reintegration of TOT. In October 2021, the Government of Ukraine adopted the Strategy on 'Integration of IDPs and implementation of mid-term solutions on internal displacement until 2024' integrating the majority of proposals raised by humanitarian organizations. The Strategy is expected to be a framework document for further development of the IDP-related legislation and focuses on the key six priorities: housing and property; employment and education; social protection; healthcare; access to documentation; and integration to the hosting communities.

Coalition of national NGOs



The outbreak of the conflict significantly contributed to the establishment of civil society and the growth of national NGOs focusing on the protection of IDPs and conflict-affected population. Over the years, the links established between NGOs were shaped into informal coalition, which exists in parallel with the UN-established coordination mechanism and complements it. The coalition consists of around ten national NGOs and is technically supported by the UNHCR; a part of coalition members are members of the Protection Cluster. The coalition applies various advocacy tools to impact the state decisions – open public letters; letters in support of adoption of legislative acts; collective advocacy events; and collective meetings with the state representatives. In December 2021, the new Minister of Reintegration of TOT established an advisory council aimed at providing strategic and technical assistance to the Ministry, which includes two representatives of civil society from ‘coalition NGOs’.

Supporting IDP collective advocacy – IDP Councils

In 2019, protection partners launched a project to establish ‘IDP Councils’ composed of IDP representatives and host community members, as an advisory body for the local and regional level authorities. The Councils aimed at enhancing IDP participation in local political and social life and ensuring that IDPs are taken into consideration by the decision-makers. Also, they serve as an important channel for IDPs to have predictable and regular interactions with authorities. As of December 2021, were established nine IDP Councils under the local administrations of conflict-affected communities (Civil-Military Administrations and Territorial Communities), as well regional level authorities. The Councils became a good source of information on the IDP protection risks and needs, as well as supported NGOs in programming and provided recommendations for the authorities.

II - Examples of successful collective protection advocacy in Ukraine

HLP

Compensation Mechanism for Damaged/Destroyed Housing: In September 2020, the Government adopted Decree №767, providing an administrative mechanism for the compensation of property destroyed as a result of the conflict. This was a result of 3-years advocacy efforts led by Protection Cluster partners under the leadership of the Cluster’s Technical Working Group on Land Housing and Property (HLP TWG). Protection partners provided substantial expert support to the Ministry for Reintegration of Temporarily Occupied Territories and IDPs to prepare the draft document and promote its’ adoption by the Government. In November 2020, the Compensation Committees approved the first applications for compensation and as of August 2021, the Committees continue to review and approve the cases. However, the practice showed that some provisions of the Decree prevent people, whose property was destroyed as a result of conflict, from applying for compensation. The key drawback was the requirement to grant the right to destroyed property to the local authorities before applying for compensation. In January-February 2021, HLP TWG upon the request of the Ministry for Reintegration provided comments on the amendments to the Compensation Decree. The Ministry is expected to share the final version of the draft in the nearest months. Adoption of the compensation mechanism benefits not only the people living near the contact line, but also allows the displaced people to obtain compensation and use the funds to purchase housing in their new communities.

Housing Programmes for IDPs: in consultations with displaced communities, IDPs state that one of the main constraints for their local integration is lack of access to housing programmes. Thanks to advocacy efforts of protection partners, housing programmes targeting IDPs were approved in 2021 and it is expected that 412 IDPs in 14 regions across Ukraine will benefit from this programme. So far, 150 IDPs were selected for the first round of applications. In addition, partners continue the advocacy with the Parliament for the approval of the draft law №4487 amending the framework Law ‘On ensuring rights and freedoms of internally displaced persons’ to regulate housing solutions for IDPs.

Expropriation of Property in Non-Government Controlled Areas: In April 2021, de-facto authorities adopted a normative act for the expropriation of property. The regulation raised concerns of protection partners due to the risk of arbitrary deprivation of property and additional constraints for IDPs’ return and reintegration once the situation allows. IDPs and other conflict affected people living in Government Controlled Areas (GCA) are the main profile at heightened risk of violation of their property rights, especially considering that since March 2020 crossings through Entre-Exit Crossing Points (EECPs) were restricted and significantly dropped (90% decrease in comparison to previous years). Since it became more difficult to



access the territory of NGCA, IDPs and conflict affected population were unable to regularly check on their properties and take actions to secure their property rights. The Protection Cluster's TWG on Housing, Land and Property conducted a legal review and issued an Internal Note to guide both the HCT on the advocacy with de facto authorities, as well as legal aid partners on how to counsel IDPs and affected population on how to protect property in NGCA.

Access to pension payments for people residing in NGCA: Since Government institutions ceased to operate in NGCA in November 2014, people residing in NGCA have been able to access pensions only if they travel to GCA and register as an IDP. The right to pension is granted by the Constitution of Ukraine and the Law 'On pension payments' provides the list of grounds allowing to suspend pension payments. According to the Law, living on NGCA is not a ground for suspending pensions, however due to the Resolutions №365, №637, and №595 NGCA pensioners forced to register as IDPs in order to access their payments. In 2016, the Government introduced strict verification procedures aimed at identification of NGCA residents registered as IDPs to suspend their pension payments. As a result, out of 1,278,000 pensioners registered in NGCA in 2014, only 562,000 (44%) continued to receive pensions.

Starting since 2015, protection partners conduct coordinated, and consistent advocacy efforts aimed at ensuring access to pension for NGCA residents. This includes development the draft laws and their promotion in the Parliament, series of conferences and round tables to inform decision-makers and donors on the issue and its possible solutions, bilateral discussions with top-level officials. In 2017, protection partners supported registration of the draft law #6692 delinking IDP status from pensions payments, however it did not pass through Parliamentary committees. In November 2019, protection partners prepared a similar in its substance draft law #2083-d10 allowing people with the residence registration in NGCA to access their pension payments without having to register as IDPs. The draft later was not supported by key Parliamentary Committee and not included to the agenda of Parliamentary sessions. Due to introduction of quarantine measures in March 2020, the work on resubmission of the draft law to Parliamentary Committee was suspended. Slow progress on addressing this issue is also associated with the possible financial burden on the State Budget. In case of adoption of the draft law, the Government will be obliged not only to renew payments for more than 1 million NGCA pensioners, but also to compensate pension debts accrued over the past 5 years.

Access to birth and death registration: People residing in NGCA face additional difficulties in registering facts of birth in line with Ukrainian legislation, which puts children born in NGCA under threat of statelessness. According to the estimations of the Government of Ukraine – around 55% children born in NGCA are not documented with Ukrainian birth certificates. According to the national legislation, children receive birth certificated based on the medical certificate issued by the maternity hospital or expert opinion issued by the medical advisory commission. If these documents are not available, the certificate is being issued based on the court decision. In 2018, the Parliament adopted the law of Ukraine 'On state policy regarding temporarily occupied territories', which recognizes any document proving the facts of death and birth on NGCA, issued by de-facto authorities. This could allow NGCA residents to register fact using administrative mechanism without undergoing court procedures and using less time and financial resources.

The Ministry on Temporarily Occupied Territories jointly with the protection partners developed a bylaw setting forth the steps in an administrative procedure of birth registration. However, in 2019 the Ministry of Justice developed an alternative document establishing an additional administrative layer in the civil registration process, reportedly to address concerns about the authenticity of documents issued in NGCA. At the moment, birth certificates continue to be issued based on the court procedure since no bylaw regulating administrative procedure was adopted. Protection partners continue to advocate for the simplification of the procedure and stand ready to lend support in identifying reasonable measures of risk mitigation, including providing specialised training to civil registry officials working along the contact line.

In parallel with the simplification of birth registration for residents of NGCA, protection partners have been advocating for digital solutions to ensure better access to documentation and minimize the risk of statelessness among residents of NGCA. The Ministry of Digital Transformation established in September 2019, launched an online service e-Maliatko (e-Baby) allowing all citizens of Ukraine to apply for birth certificates online and receive other administrative services for families with newborn children. In May 2021, the Cabinet of Ministers adopted Resolution #155 extending this service to NGCA residents. Although court decisions are still a pre-requisite for birth registration, parents after receiving court decisions on issuing a birth certificate in person can apply for birth registration online instead of visiting civil registry offices. This allows them to shorten their stay in GCA and spent less financial and time resources.



IDP Voting rights: With 1.5 million registered IDPs, it is estimated that 4% of voters in Ukraine are IDPs. Voting rights in Ukraine were linked to residence registration. While IDP registration in areas of displacement gave IDPs access to services in these communities, it is temporary in its nature and does not make IDPs full-fledged members of their new communities. Thus, IDPs had a right to vote in Presidential elections and to vote for 50% of Parliament (voting for political parties), but did not have a right to elect members of parliaments in single-member districts (50% of Parliaments) representing particular constituencies and vote in local elections – mayors and town, district and regional councils. Following the Protection Cluster and partners advocacy on voting rights, on 18 May 2020 Central Election Commission adopted Resolution No. 88 on the procedure of considering a voter’s appeal on the change of the electoral address for all types of elections, including at the local level, enabling IDPs to exercise their voting rights in the October 2020 local elections. Protection Cluster partners have done large scale campaigns for voting rights of IDPs in Ukraine, by joining efforts with organizations advocating for voting rights of non-displaced population migrating within the country, engaging local authorities to advocate in favor of IDP participation in local elections, working with MPs and providing support for preparing draft legislation and conducting media campaigns highlighting the contribution of active IDPs in their communities.