

Right to pension

in the context of armed conflict: international experience and solutions for Ukraine

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Background

In 2014, the Cabinet of Ministers of Ukraine issued the Decree restricting the right to pensions and social benefits of citizens of Ukraine residing in the government designated “area of Anti-terrorist operation” in eastern Ukraine. As of today, in order to access social benefits and pensions, residents of the non-government controlled areas (NGCA) have to move to the territory controlled by the government (GCA) and register as internally displaced people (IDPs). This situation has forced many civilians from NGCA to register as IDPs, but in reality, those people simply “commute” regularly between NGCA and GCA. In response to such a practice, the Ukrainian Government introduced a complicated process of verification and checks in order to ensure that only those who actually reside as IDPs in GCA receive pension payments. Based on reports of the Pension Fund in 2016, around 400 000 people in eastern Ukraine did not have access to their pensions. Linking pensions to IDP registration forces people to undertake frequent travel between checkpoints separating GCA from NGCA. This generates additional expenses and increases security risks for people.

Particularly difficult is the situation of those pensioners who have chronic illnesses or disabilities. These people are virtually cut off from accessing their pensions. Their health conditions often do not allow them to travel to GCA. Due to the ban imposed by the government, they cannot provide anyone with power of attorney to represent their interests in GCA. Although it is difficult to assess the exact number of such people living in NGCA, the NRC telephone hotline regularly receives calls from elderly citizens living in NGCA who have no relatives to support them and are not able to travel. The conflict is the primary cause



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of their suffering; however, the existing government policy has made their lives even more difficult, since it blocks the opportunity for such people to access their pensions in order to obtain such critically important items as food and medicine.

Such a situation not only generates immense hardship at the individual level, but also is inconsistent with the legislation of Ukraine and international human rights law. Article 46 of the Constitution of Ukraine guarantees the right of citizens to social protection including pensions. According to the Law of Ukraine on State Pension Provision, all citizens of Ukraine have the right to receive pension upon reaching a defined age, due to disability or other reasons. Ukraine is party to the international conventions guaranteeing the rights to social protection. Notably, rights to social security and adequate standards of living are protected by articles 22 and 25 of the Universal Declaration of Human Rights and by Article 9 of the International Covenant on Economic, Social and Cultural Rights. The ILO Convention 102 on Social Security sets the minimum standards of protection, which includes payments of pension and social benefits. Article 12 of the European Social Charter protects the right to social security, including pensions, which can be broadly described as protecting the material conditions necessary for an adequate standard of living and from life-threatening and degrading conditions of poverty and material insecurity. Pension entitlements fall within the scope of the right to property guaranteed by Article 1 of Protocol 1 to the European Convention on Human Rights. It follows that any interferences with that right must be based on law, must pursue a legitimate aim



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and strike a fair balance between the interests of the individual and those of the public. They must also not impose a heavy and disproportionate burden on citizens. The discontinuation of pension entitlements may, therefore, constitute an interference with the right to peaceful enjoyment of possessions.

The humanitarian community and Ukrainian civil society constantly urges the Government of Ukraine to guarantee or ensure all eligible citizens of Ukraine the right to receive their entitlements, including pensions and social benefits, regardless of IDP registration or place of residence – including for those in NGCA.

To provide a forum for dialogue between the government, civil society and humanitarian community on possible solutions in the Ukrainian context, to acquire knowledge about good practices from similar contexts (such as Georgia, Moldova, Balkan countries, etc.), as well as to increase the level of understanding of the international obligations taken by Ukraine (particularly as a member of the Council of Europe), the Norwegian Refugee Council organised a discussion **“The right to pension in the context of armed conflict: international experience and solutions for Ukraine”**, which took place on September 7, 2017.

The discussion was attended by Mr. Pablo Mateu, the UNHCR Representative in Ukraine, Ms. Fiona Frazer, the Head of the United Nations Human Rights Monitoring Mission in Ukraine, Mr. Christopher Mehley, NRC Country Director in Ukraine, Mr. Grigory Nemyria, the Chairman of the Verkhovna Rada Committee on Human Rights, National Minorities and Interethnic Relations, Georgii Tuka, the Deputy Minister for Temporarily Occupied Territories and Internally Displaced Persons of Ukraine, Ms. Valeriya Lutkovska, the Verkhovna Rada of Ukraine Commissioner for Human Rights, Ms. Jasminka Džumhur, the Commissioner for Human Rights of Bosnia and Herzegovina, Mr. Petra Kankava, the First Deputy Minister for Reconciliation and Civilian Equality of Georgia, international experts, human rights activists and media. Their impressions and thoughts are collected in this publication, which aims to sensitize the Government of Ukraine and the public at large about the scale and importance of the issue of provision of pension entitlements to residents of non-government controlled areas in eastern Ukraine.

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Introductory remarks

Grigory Nemyria,

Chairman of the Verkhovna Rada Committee on Human Rights, National Minorities and Interethnic Relations

I would like to thank the Norwegian Refugee Council and other colleagues for the dedicated work aimed at an effective protection of human rights, especially the category of Ukrainian citizens who are the most vulnerable in the current situation. We are talking about the citizens of Ukraine who remained in the territory which is not controlled by the Government of Ukraine, as well as those who came from that territory.

The Human Rights Committee is a specialized committee of the Parliament of Ukraine which deals with these issues. I would like to note that, despite a relatively short period of the phenomenon of displacement, there is every reason now to say that this phenomenon will not go away quickly due to certain circumstances, it is obvious that we are dealing with the phenomenon of prolonged displacement – **a protracted displacement**.

In this situation, basing on a general observation we can talk about the existing restrictions which are, on the one hand, the objective, but, on the other hand, I would prefer to say about what can and should be done. We can take into account the experience of other countries which have not identical, but similar situations, in terms of the combination of legislative initiatives and changes in Ukrainian laws or, if necessary, the adoption of new ones and ensuring that Resolutions of the Cabinet of Ministers of Ukraine do not contradict those laws, and are in full compliance with them.

I am very glad that I will be able to hear the experience and approaches of solving this issue by our colleagues from Georgia and Moldova, from the Balkan countries, because **it is very important not to be isolated in one's own emotions, political situation, but to take into account the experience on such issues**. Today we will focus on pensions. When I've been registering in the Verkhovna Rada today, all

deputies were distributed the report of the Accounting Chamber, which is called "On the results of the analysis of the causes of the Pension Fund budget deficit and the expenses covered by the state budget", quickly looked through it and found only one point, which refers to a new circumstance faced before the Pension Fund – namely, internally displaced persons. It was stated, that on 29 of February, 2016 pension payments have been suspended for 460.8 thousand persons. At the same time, it was pointed out that after the application of those persons at the end of 2016 – the beginning of 2017 pension payments were resumed to almost 194 thousand of internally displaced persons in the amount of 505 million hryvnia. According to the Ministry of Finance calculations, **as a result of this so-called verification it was planned to save 9 billion 260 million hryvnia in the budget by the end of 2016**.



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At the same time, according to the Pension Fund accounts – I would very much like if there will be representatives of the Ministry of Finance, the Pension Fund, the Ministry of Social Policy, – in fact, there were no such savings as of April 1, 2017. The verification of 145 million persons who get pensions was carried out. 16 thousand of 145 million cases had personal data amendments and only 59 people, according to the Pension Fund accounts, had their payments suspended. For me it is not clear, perhaps,

some important statistical error occurred, but it doesn't coincide with the information that has been included in the official documents handed out here. And I would like to understand what the reason is.

The second thing I would like to notice is that in the past year the Committee twice had a meeting in Donetsk and Luhansk oblasts and raised this issue and the representatives of different ministries made remarks that some issues are not settled by law, and therefore they need to be settled. I am very pleased that **after the initiative work carried out, supported by the Norwegian Refugee Council, non-governmental organisations supporting the IDPs, with the help of deputies of the Verkhovna Rada the relevant Draft Law No 6692 was registered.** The main committee in this issue is the Committee of Social Policy, but the Human Rights Committee will discuss it also at one of its next meetings, I am sure that the

of the budget of Ukraine. This is a serious thing if we want to achieve real results. So, at the legislative level, **in case of adoption of this law, of course, it will not solve all problems, but at least it will unlock those things that block the resolution of this issue.**

The third thing I would like to say concerns more fundamental issues. When we say that these territories are currently not controlled by the Ukrainian government it is very difficult (if not impossible) to ensure the constitutional rights, guarantee for freedom of citizens living there, – **we cannot forget that they are the citizens of Ukraine and their number is more than three million.** More than three million citizens of Ukraine! And in this case, a statement of the obvious things: security, political, in some cases diplomatic in the context of the Minsk process, – **we shouldn't justify the lack of political will to find the mechanisms to solve the issue of guarantees of constitutional rights and freedoms even under such conditions.**

I have to go earlier (now, as you know, the President addresses to the Verkhovna Rada with his annual message) and I do not know if the President will pay attention to the situation on human rights and freedoms of Ukrainian citizens in the uncontrolled territories, or to the problem of IDPs (there are more than half a million of them in Ukraine). But we have to speak about the political will. **If the political will is clearly and unambiguously expressed, then we would not see often this bureaucratic football from one**

ministry to another. I do not want to speculate right now that one doesn't want to deal with this issue because someone decided that their voters don't live in the east of Ukraine. I do not want to be involved in this speculation, but I want to pay attention to those things that can be solved. What is preventing and what has prevented in the past the Cabinet of Ministers of Ukraine to amend the number of its own decisions: the Resolution No. 365 of 8 June 2016, the Resolution No. 505 of 1 October 2014, the Resolution No. 136 of 18 February 2016, – which contradict and contain clear elements of direct and indirect discrimination, violation of rights and freedoms of Ukrainian citizens who are internally displaced or living in the territories that are not controlled by the government? Who must be responsible for the suspension of payments, welfare payments, including pensions, which takes place on the



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members of the Committee will support this bill, and at the next meeting of the agreement committee I will turn to the Chairman of the Verkhovna Rada with the proposition to include it to the agenda in order to be discussed and adopted as a basis in the first reading.

I am worried about the time frames because it is already announced that the draft budget has been prepared – it must be submitted before September 15, and must be approved by the end of this year. **If we're late, once again, unfortunately, we can get into a situation when the budget does not cover the expenses necessary for the realisation of legal regulations.** I pay attention to this as it will require advocacy and focus on not only in the public space but also in law in regard to the speed of preparation and changes between the first and second readings

grounds of the lists of the Security Service of Ukraine with fixing tenure or lack of a place of residence, which is absolutely against the law? What I'm saying is the statement of obvious things. But we also have to state a proceeding situation with impunity: these acts are not analysed by the Ministry of Justice and they have nothing to do with the law, because they contradict it, just as they contradict the Constitution in regard to the right to pension.

We're talking about three categories of people to whom payment or non-payment of pensions relate: the citizens of Ukraine who reside in the temporarily occupied territory which is not controlled by the government; those citizens who went abroad – their statistics is difficult but can be estimated, but in relation to this category there is discrimination in the form of non-payment of pensions; and the third category – internally displaced people, who are now being discriminated. The violation of their rights to freedom of movement, violation of their right to freedom of choice if they want to receive their pensions at the post office personally, in a specific bank that they trust, and why they can receive payments only in one bank – these are also important things to talk about.

The same goes for verification. No one denies that the verification is a standard tool for relevant executive bodies which have the appropriate powers to act in accordance with the law and established procedures, which do not violate these laws, carry out verification on a regular basis. In that way, verification has nothing to do with human rights and provides direct discrimination in relation to the citizens of Ukraine. We can talk about civilian control of the security forces, but again I want to ask: why is there no civilian control over the actions of the Ukrainian Security Service? Who is responsible for such a practice? If no one is responsible, for me it means one thing: someone needs this practice.

You cannot always and everywhere justify the protection of human rights only and exclusively with security issues. They should be considered, but the securitization of everything related to the human rights is a wrong step away from democracy to authoritarianism. Therefore, it's very important to hear once again how such issues were solved and are being solved in Georgia, which has also several waves of such mass movements; how they are solved in the neighboring Moldova, which has common and distinct issues; and I have already mentioned the Western Balkans.

I hope that today's discussion (and thanks once again to the Norwegian Refugee Council) will not become another conference to talk, but that in a month we will have a law which, as I said, was prepared with the active participation those present here, we will have the corresponding figures and lines in the budget of Ukraine, in the budget draft for 2018, so that we would not just have the right with no funding, with no mechanism for its implementation, like the situation we've got now with the pension, whether such situation is because of financial or bureaucratic reasons. I hope that this constructive criticism of the Cabinet of Ministers will lead to the fact that we will not face the situation with another and another new working group, but finally changes to the decrees I have mentioned will be implemented, as well to some other decrees which I haven't mentioned. You don't need a degree to do it, as the Americans use to say: it's not Rocket Science. It's harder than the Rocket Science, because the Rocket Science applies only to a few geniuses, and this applies to millions of people.

And, of course, I hope that with the support of the Council of Europe, in spite of the things that may or may not be resolved, the result is going to be the same – and that is the goal: to facilitate the situation of the citizens of Ukraine who not by their will got into the situation nobody would like to get into. Because we are talking now about the pension, but the pension is always a part of the family. And often these are single retired persons who have no other source of income, and often these are family members in families with small kids, and pension is used also to give something to those children, to educate them. We talk about the phenomenon of people where there are grandparents and young kids, and parents have migrated to somewhere.

I tried to put a generalized vision, of course, without touching the details, and I would like to wish you a productive work and, more importantly, the result as the output.

Thank you!

As I have to leave, I would like to thank you and to make one proposal. The one proposal I would like to make, taking into the account that not all stakeholders are present here, it would be excellent if the summary with the key findings and recommendations could be sent on behalf of this gathering to the President and his administration, to the Prime Minister and the

Cabinet of Ministers, and to the Verkhovna Rada, the speakers of the key Committees. Thus, this is the first concrete proposal.

The second, the concern, has to do with an elephant in this room. The elephant in this room is the draft law which currently everybody is talking about, but not very many have seen the draft, including me as the Chairman of the Committee. None of the members of the Committee, unfortunately, has been invited to discuss this draft law on the specificities of the returning of the temporarily occupied territories of Donbas under the Ukraine's control. This is the famous law which everybody is talking, but nobody

has seen. So, my concern, that could be done is to make sure that these specificities would not contradict to other laws, including the law we've mentioned, that the law would not worsen the situation with the rights of the citizens of Ukraine. And I also would like to suggest to include in your recommendations a request, before this law will go through the legislative pipeline, to make sure that the public consultations and discussions on the expert level, the civil society, including those people from Donbas, will take place – not after.

Thank you!

Georgii Tuka,

Deputy Minister for Temporarily Occupied Territories and Internally Displaced Persons

Good morning, my friends!

First of all, I would like to apologise for the fact that I will be very, very brief because the Government meeting starts in 20 minutes.

Firstly, I want to sincerely thank NRC which was the first and, perhaps, for a long time remained the only organisation whose activity I saw in Luhansk oblast myself. I saw people in those orange vests present in Stanytsia Luhanska, in Popasna, in Druzhkivka, in many settlements, where almost no one stopped by. That was glass, and slate, and wood and coal – everything that inhabitants ever were in need of. Therefore, I personally have such emotionally based attitude to NRC. Thank you sincerely!

With regard to this problem, which we are going to discuss today – the payment of pensions, – first let me say that when I cannot tell the truth, I don't talk at all. What I will say now, I have no doubt about it and I want you to have no doubt about it either. **Even during private conversations with my colleagues in the government I have never observed any intention or any desire to save on non-paying pensions to people who live in the non-government controlled territories.** This is the first.

Second. It has been discussed for the last two years how we can perform those pensions payments. I am very pleased that as a result of the joint activity of our Ministry, the Council of Europe, civil society

organisations the law draft was developed, which Mr. Nemyria has just mentioned, and has already been submitted to the Verkhovna Rada, and, from our point of view, its implementation will allow to solve this problem. If we approach the issue from two directions – humanitarian and financial – there is no doubt that this problem should be solved from the point of the humanitarian component. Unfortunately, this issue is very politicized in our country. We are not unique in this aspect though. I think that our colleagues who will talk about the experience of the other countries in this matter will confirm my words. In particular, when two weeks ago we had the Croatian delegation, our friends from Croatia have confirmed that, for them, in terms of the policy, the most important matter was the payment of pensions to citizens residing in the uncontrolled territories. In spite of that (I mean first of all in spite of public opinion), Croatia found the strength to make the decision as it was required by common sense, not by emotions.

If you take the second component – the financial burden, – **I have serious doubts that conditional (I emphasize – conditional) budget expenditures for payment of pensions to those people who are not currently getting it will cause a large burden to the state budget.** Why? Just quit following ostrich's policy, burying its head into the sand, quit telling about the huge number of migrants, while blaming those people in so-called "pension tourism". This phenomenon exists, do not turn a blind eye, and I'm

actually never going to blame those people because they are engaged in that kind of tourism, because there is no other way to survive for them. I think that no one, not only among those present in the room but no one in the whole Ukraine, would like to be in their shoes. Therefore, I'm not going to blame them, and I haven't ever. If we remove the ambiguity of the situation, it will give us the opportunity to see the real number of internally displaced persons.

Today, citizens of Ukraine who are registered in the occupied territory and have no IDP certificate are actually without any rights:

pensioners who are assigned a pension by age, single mothers or disabled persons, in respect of whom the state has social obligations, – they all cannot receive their payments until they are registered as IDPs. Therefore, people are registered as internally displaced persons solely to receive pension payments, because they have not been provided with another mechanism. **This situation is unacceptable.** And in order to solve this difficult problem, a draft law has been submitted to the Verkhovna Rada. I am very glad to hear from Mr. Nemyria the thesis that they'll try to vote that draft as soon as possible. I think that it is going to get the required number of votes in the Parliament in order

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to adopt it in first reading; although based on the fact that as I mentioned, the project has great politicization some are going to scream and prove that financing of terrorism is taking place, separatism and so on. Though we have been many times through all that: they are going to scream and panic but then the dust will settle down.

Once again, I want to apologize, but I have got to go quickly. I really wish you successful work. Looking forward to receiving the report, there are a lot of our employees over here.

Thank you!

Fiona Frazer,

the Head of the United Nations Human Rights Monitoring Mission in Ukraine

Thank you very much, Christopher, and good morning to you, ladies and gentlemen!

I'd like, first of all, to thank NRC very much for organising this event. It's absolutely critical and very welcome that all of us who's continuing to work on the issue of pensions for those who have been directly affected by the armed conflict in the eastern part of Ukraine. I'm going to make a few reflections on the context, then also try to get some more personal perspectives for a couple of individuals, and then I'm going through some recommendations to get some frames.

First of all, **the UN Human Rights Monitoring Mission has been working on the issue of access to pensions for those who continue to reside in all parts of Ukraine, but particularly in areas affected by the conflict since its onset in April 2014.**

By August 2014 there were more than 1 million pensioners registered in Donetsk and Luhansk oblasts and in territories under the control of armed groups. By December 2014 the Cabinet of Ministers adopted the decision saying that all pensioners with the residence registered in the territory controlled by armed groups were required to register as IDPs in order to receive the pensions. From this moment

the accessing and obtaining pensions for somebody who continues to live on the armed group controlled territory was directly and mandatory linked to being registered as an IDP.

For whatever reasons that were taken for that decision, what we have had in the year that has gone from that moment is that this policy has had negative consequences. And I will mention just a few. It led to unnecessary displacement, thereby distorted justice statistics for IDPs and deprived many of the most vulnerable of the pensions. Following this requirement, 75 % of pensioners from the armed group controlled territory did actually go to register as IDPs in order to obtain their pensions. So, we can see it's a high percentage of those who were entitled to a pension. Many of them continue to maintain the actual residence, property, and family ties in the territory under the control of armed groups. And thereby in order to get their pensions, they travel back and forth across the contact line. However, at this stage, they were already estimated 160 000 people who lost access to their pension. This is for a number of reasons, including that for many: they were confused by the situation they were in; they had disabilities or unable to actually make the crossing back and forth; they were too old to do that crossing; they didn't want to stand in lines, were unfamiliar with the procedures; they were just unfamiliar with the context they were in, in particular going to a town, undergoing new and unclear

registration procedures. Also, many people who continue to live in the armed group control territories say they simply didn't have an access to information of what was happening in their countries.

A couple of years walked by, and by 2016 the government introduced a verification procedure of pensioners who were registered as IDPs. There's been much discussion around the suspension of these pensions, but in some cases pensions were suspended on the belief that people were just travelling back and forward to across the contact line. Maybe, they were IDPs, but they were going to check on their property, for example. Or they were continuing to live in the armed group control territory, and, yes, they're making the crossing just to receive their pension. **As a result of this verification, in 2016 more than 400 000 people lost access to their pension, and it's believed that this figure has even more increased – up to now it's some 0,5 million to 600'000 who're no longer receiving pension, and they are not only those who continue to reside in the territory controlled by armed groups, but also IDPs in the government-controlled areas.**

So, I just like to take a couple of minutes to reflect on two individual cases.

We have a case of a woman, named Nadezhda, 91 years old, who lived in Donetsk. By the time the conflict broke out, she was 88 and received her



Photo credit: HRMMU

pension, but did not make the crossing the contact line to register as an IDP. She didn't understand what an IDP is, she didn't have all the information, and she was confused about the whole process; and so, she just decided not to undergo the necessary requirements to continue to receive her pension. And she actually died some six months ago, so she never received her pension after the onset of the conflict.

Over here we have Victor. Victor is an example of somebody who also lives in Donetsk, who only registered to be an IDP in order to get his pension. He is no longer able to receive his pension, and he took his case to the court, because of the allegation that he shouldn't be receiving his pension, as he continues to reside in the armed group control territories and he's just making the crossing on back and forth.

So, we've joined in the advocacy campaign that is currently ongoing, and there are series of recommendations that have been made to the Government of Ukraine and to the Parliament. And I would like to highlight a few of them.

Overall, we all believe that **Ukraine should resume planned payments to pensioners, regardless of their place of residence.** And there are a number of reasons that contribute to this. First of all, international legal obligations. **Pensions are a property, and individuals must not be deprived of this property on a discriminatory basis,** and the reason for this discriminatory basis has already been highlighted by Mr Nemyria. From perspectives of the **international obligations, – Ukraine is likely to face multiple legal challenges at the European Court of Human Rights, if it doesn't change this practice.** Then, it also has been referred to national legal obligations. The **Ukrainian legislation guarantees the right to social security and provides only very limited grounds for depriving of pension.** Also, what was referred to, many pensioners have taken their cases to the court, and **we know at least 60 cases when pensioners from the territories controlled by armed groups have lawsuits that have challenged the suspension of their pensions.**



Photo credit: HRMMU

And finally, among the reasons why we believe it's necessary for a change in the approach to pensions is the issue of social cohesion. There's a fundamental belief, which I think many of us support, that **the payment of pensions would send a very positive social distinct message to those who continue to reside in the territories controlled by armed groups, not only pensioners themselves but their families and communities.**

We very much welcome the draft law No 6692, and we hope that it will stop and get the relevant support from the state bodies that will eliminate obstacles that actually preventing Ukrainian citizens from having equal access to pensions, regardless of the place of residence or IDP registration.

Thank you very much!

Experiences from the region and case law of the European Court of Human Rights

Petre Kankava,

First Deputy State Minister of Georgia for Reconciliation and Civic Equality

Good morning, dear colleagues!

I would like to appreciate thanks to the Norwegian Refugee Council for inviting us to discuss this very important issue – on pension in the context of the armed conflict. The experience of our country is very useful, and I believe it can be used by our Ukrainian colleagues in practice.

So, before touching the Georgia practice, I will show the picture of the situation that we have in Georgia. This is extremely important to understand where we are, and where we are going to, and why we're doing that. Unfortunately, we have 25 years of a very bad experience – the experience of the occupation, the experience of non-controlled by the Government of Georgia territory, the experience of refugees and IDPs in the country, people who lost their right to stay and live in their homes. And as you've faced these problems just recently, we believed in the very beginning of the 90s that it'd take one, two-three years, and we'd find a solution, and then we could live together in the peace like it had been during the centuries. But unfortunately, we're still in the position where we are.

Unresolved conflicts remain a major challenge to peace and security not only for the countries affected by them, but for the whole international community and civilised world. Since the collapse of the Soviet Union, newly independent countries in the immediate neighborhood of the Russian Federation aspiring towards the EU integration and values suffered from politically driven conflicts where the Russian Federation played no minor part. It cannot be regarded a fact of a coincidence that 5 out of 6 Eastern European countries have to counter either occupation, annexation, ethnic or political conflicts on a daily basis. Keeping conflicts alive gives Russia leverages to influence the development and European integration of these countries. In contrast, the peaceful settlement of the conflict remains an utmost and ultimate goal of Georgia as we deeply believe that the existing situation does not serve the interests of either Georgians, Abkhazians or Ossetians.

The Russian Federation continues to occupy more than 20% of Georgia's territories. Following the widespread Russian aggression and military intervention into Georgia in 2008, Russia illegally recognized the so-called independence of Georgian regions of Abkhazia and Tskhinvali region/South Ossetia.

The first wave of ethnic cleansing and forced displacement in Georgia dates back to the early 90s. At that time, in violation of the series of ceasefire agreements, Georgian population, as well as other ethnic groups – e.g. Greeks, Ukrainians, Estonians and others, were targeted and expelled from Abkhazia region. In a similar manner, ethnic cleansing was conducted in Tskhinvali region/South Ossetia. 2008 war caused another major wave of forced displacement. As a result, over 70% of Abkhazia's and 75% of Tskhinvali region/South Ossetia's pre-war population was driven out and the regions became practically depopulated. **Despite the continuous urges and efforts of the international community and of the Government of Georgia, hundreds of thousands of IDPs and refugees are denied the alienable right to safe and dignified return and cannot go back to their homes.**

At present, the Russian Federation exercises effective political, military, economic and social control on Georgian regions of Abkhazia and Tskhinvali region/South Ossetia. The conflict cannot be labelled as "frozen" as we observe very dynamic militarization and Russification policy conducted on a regular basis. Russia illegally maintains tens of thousands of troops, armaments and military bases in those areas and further continues the illegal militarization process. The so-called Russian FSB officers standing on the occupation lines maintain to "guard the border" inside Georgia thus creating artificial barriers for the movement and the communication between the people on both sides of the divide.

The intensified installation of large-scale barbwire fences and other artificial obstacles along the occupation line in Abkhazia and the Tskhinvali region/

South Ossetia has been ongoing since 2011. The total length of barbwire fences currently equals to 100 km. This process has additionally compelled the local population to leave their places of residence, dividing the families and communities, and preventing people-to-people contacts. Local residents are prevented from accessing their orchards, churches, cemeteries, as well as reaching emergency medical services. At the same time, local population temporarily living on Georgia controlled territory are detained by Russian officers on a regular basis for the so-called “illegal border crossing”, even during Christmas time. In particular, since 2008 almost 3 thousand persons were illegally detained.

With the ongoing occupation and installation of artificial barriers, the Russian Federation continues to practically isolate Georgian regions of Abkhazia and Tskhinvali region/South Ossetia from the rest of Georgia as well as from the outside world. Tskhinvali region/South Ossetia remains fully sealed off and the movement across the occupation line is forbidden for anyone except for the residents of local Akhalkalaki district. Out of 6 crossing points operating with regard to Abkhazia region, two were closed in spring of 2016 and two others - on March 5, 2017.

The International community, including UN agencies, has been very vocal in condemning the closure of the crossing points that further restricts the freedom of movement, aggravates the humanitarian situation on the ground and severely violates basic human rights, including access to healthcare, education and various social-economic services.

Both Georgian regions of Abkhazia and Tskhinvali region/South Ossetia continue to be completely closed for international monitoring mechanisms since 2009 when the mandates of the UN and OSCE Special Monitoring Missions were vetoed and blocked by the Russian Federation.

Gali district of Abkhazia region populated with ethnic Georgians remains of particular concern. The local population is deprived of the basic safeguards for the protection of their rights and is continuously subject to discrimination on ethnic basis thus practically living in ghettos and under modern day apartheid. The discriminatory actions include, but are not limited to, ethnically targeted violence, constant violation of security and property rights, hindering of freedom of movement and residence, violation of the right to education in native language, denied access to the local documents needed for the enjoyment of basic human rights, etc.

In January 2016 *de-facto* authorities adopted new so-called laws on the “Status of Foreigners”, that further create formal grounds for the ethnic discrimination against Georgians living in Gali district. These new rules restrict their rights to stay inside the region, violate their right to work, freedom of movement and other fundamental rights and freedoms. The same “legislation” has also been adopted in Tskhinvali region as well.

The right to education in native Georgian language for ethnic Georgians residing in Gali district of occupied Abkhazia region is practically fully restricted since the start of 2015/2016 academic year. This kind of policy that carries the strong elements of ethnic discrimination has been gradually implemented since the 90s and the situation deteriorated year by year – in 90s there were 52 Georgian schools only in Gali district. At first, their number reduced to 31 and then to 11. In these remaining 11 schools Georgian as a language of instruction was now replaced by Russian that clearly reflects Russification policy.

Despite the existing situation, the Government of Georgia remains committed to the peaceful, constructive and pragmatic policy of reconciliation, confidence building and engagement, actively pursuing the aim of peaceful conflict settlement and conflict transformation. Lately, we have shaped this policy under 8 priority objectives that encompass our visions and approaches and includes protection and provision of peace, direct dialogue, reconciliation and confidence-building with regard to Abkhazian and Ossetian communities, cooperation on mutual interests, sharing of various benefits and opportunities, taking care of conflict-affected population and mobilization of international support in this regard.

Taking care of the conflict-affected population, in particular IDPs, population living adjacent to occupation lines and residing in the occupied territories, is one of our most important aims.

The Government of Georgia is especially concerned with the protection of basic human rights of the residents of the occupied territories, inter alia most vulnerable ethnically Georgian population living in Gali district, as well as with the improvement of humanitarian situation on the ground making special emphasis on such components as healthcare, education, trade and socio-economic assistance.

The Government of Georgia aims to ensure that the residents of the occupied territories have access and enjoy same rights and privileges available to every

citizen of Georgia. We remain creative and human-oriented resorting to status-neutral frameworks and solutions for enabling access to various state-sponsored services.

The Government of Georgia covers the free of charge medical treatment of people residing in the occupied regions of Abkhazia and Tskhinvali region/South Ossetia. The receipt of free healthcare does not require the possession of Georgian ID. In 2016 the amount spent on healthcare component equaled to 7.5 million GEL. In 2017, the amount already equaled to more than 3 mln GEL. The Government of Georgia also regularly delivers to Abkhazia region necessary vaccines and medication. At present, the construction of the multi-functional medical hospital in Rukhi is underway that is the closest point to the occupation line in the direction of Abkhazia region. The functioning of this

they are granted a respective credit card where the pension is transferred on a monthly basis. It can be obtained in Georgian banks either personally or through an authorized third person. In this regard, certainly, the closure of crossing points negatively affected the possibilities for getting pensions by beneficiaries. It should also be underlined that people residing in Gali district of Abkhazia region hold the status of IDPs as the process of safe and dignified return has not been implemented in accordance with international law. Consequently, they also receive monthly allowance connected with this status.

The Government of Georgia sponsors “1+4” program that offers simplified procedures for the representatives of ethnic minorities, inter alia, Abkhazians and Ossetians, to enroll in higher education institutions of Georgia by passing only

one exam in their native language and fully funds the education. **At the same time, we have recently simplified procedures for the recognition of education received inside the occupied territories.**

The introduced amendments to the Order of the Ministry of Education of Georgia in this regard, created possibilities to obtain the recognition for the high education via status neutral solutions and eased procedures – online or through the assistance of international organisation, without the need to travel to the rest of Georgia, to take Georgian ID or to present witnesses, that was necessary before. The recognition of education authorizes

has allowed the resident of the occupied territory to continue study in higher education institution in the rest of Georgia or abroad, in leading EU and US universities, and to participate in international education programs available to students from Georgia.

At the same time, **our objective is to share the benefits and opportunities stemming from the EU-Georgia Visa Liberalisation Dialogue, political association and economic integration process, with the populations residing in Georgian regions of Abkhazia and Tskhinvali region/South Ossetia. The Government of Georgia offers Georgian passport for visa-free travel to Europe and we see this as an important peaceful tool for conflict transformation. With this aim, we continue to work on easing access to Georgian passports, from the geographical and procedural standpoint.**

high profile medical institution will make the receipt of the free of charge medical treatment for the residents of the occupied territories even more accessible and convenient. The Government of Georgia also effectively runs Hepatitis C Program. In March 2017, the screening centre for hepatitis C opened in Zugdidi, close to the administrative boundary line with Abkhazia region and hepatitis C program was made accessible for the holders of the status neutral documents as well.

The Government of Georgia ensures pensions for aged people and persons with disabilities, including for those living in occupied territories. Pensions remain as an important source of income for the residents of Abkhazia and Tskhinvali region/South Ossetia. **Eligible persons can register at the Ministry of Health and Social Protection of Georgia directly or through an authorized third person. As a result,**



The Government of Georgia uses every opportunity to reach out to Abkhazians and Ossetians either through direct participation in people-to-people diplomacy frameworks or through support and facilitation of the wider international engagement in the occupied territories and implementation of confidence-building initiatives. In close cooperation with various international organisations, the State Minister for Reconciliation and Civil Equality continuously facilitates the implementation of bilateral Georgian-Abkhazian and Georgian-Ossetian confidence-building projects that includes the meetings, seminars, trainings, study visits etc. of various groups of people – teachers, doctors, cultural heritage experts, civil society representatives, etc. – on neutral territories.

Consolidation of international efforts for supporting the population living in occupied territories is extremely important for Georgia and Ukraine.

We think that these efforts should be doubled so that people are able to receive social services. We cannot allow the vulnerable population to be deprived of Government assistance due to illegal actions of the Russian Federation. In this regard, I would like to thank international organisations operating in Georgia's occupied territories, particularly UNHCR, for its valuable contribution to the improvement of the welfare of the local population there. At the same time,

let me express gratitude for the continued support of Ukraine to Georgia in various fields, including peaceful conflict resolution. We believe that our joint efforts will ultimately lead to tangible results. Thank you!

I've touched many issues, and I'm open for and ready to answer any your questions, concerning the pension. Because the pension is one of the parts of the social support which we're providing for IDPs who are living in the government-controlled territory, as well as for the people who are living under occupation. I also want to remind we have a very interesting experience. If 10-12 years ago we had financial problems, and we could not take care of the people living in occupied territories, now we are ready to take care of them and provide them with all necessary needs, to cover their needs, to give them pension and other support. But what we've faced now is that the Russian Federation does not allow us to do that.

I would like just to give you the advice to **take care of your people while you have this opportunity.** Because now what we're asking our colleagues, our partners for are words to support and to give us the opportunity to somehow to deliver this money and any support that we can provide to other citizens of Georgia.

Thank you so much!

Ganna Khrystova,

Senior Project Officer Council of Europe Project "Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine"

Dear colleagues!

First of all, let me thank the NRC for the opportunity to join this event. We very much appreciate our cooperation, and the result is certainly tangible, because the registered draft law signed by representatives of very different and sometimes opposing political powers is an absolute guarantee and at least a hope that when the discussion will take place in committees and then in the session hall of the Verkhovna Rada of Ukraine it will not be a dialogue of political opponents, but at least those like-minded people who think in the direction of strengthening the protection of the rights of all citizens of Ukraine, in fact, protection of the human rights in Ukraine.

I also emphasize that the Council of Europe's position and the position of the official political representatives of the Council of Europe is unambiguous in the aspect of protection of the basic human rights of all citizens of Ukraine – in the territory controlled by Ukrainian authorities and in areas not controlled by Ukrainian authorities – in the part, and to the extent in which the state is able and capable to control the relevant processes and to fulfill its positive obligations. In fact, of course, part of the jurisdiction has been lost now, and to speak of the complete jurisdiction of Ukraine on territories being under control in these conditions is unacceptable. Although, to speak about the absence of any obligations is a position that is contrary to the jurisprudence of the European Court of Human Rights. The representative of the Council of Europe

Secretary General for Ukraine, Mr Régis Brillat has repeatedly appealed to the Prime Minister of the country and to the Ukrainian Government with concerns regarding access to the social guarantees, the pension payments for all persons including those who remained in the uncontrolled territories.

And now some data. **As of now, there are about four thousand cases relating to the conflict in Ukraine in the European Court of Human Rights – and they relate to the armed conflict in the east, and to the situation associated with the annexation of Crimea as well.** Among these cases, there are individual complaints addressed against Ukraine, against the Russian Federation, and against both countries. Part of the complains has been addressed even against the Great Britain as a member state of the Council of Europe and under the Budapest memorandum. But we know that this document is not legally binding, those cases do not lead to a legal perspective in the European Court of Human Rights.

European Court has already made a decision on July 25, 2017, in the case of Khlebiak vs Ukraine. This decision deals with an extremely important issue of the lack of access to the proceedings in criminal, civil, or economic (in this case, it was a criminal case) cases which have remained in the temporary uncontrolled territories. A person could not exercise his/her right of appeal in the appellate order, and the Court was estimating the responsibility of Ukraine for non-creating the proper appealing procedure.

This decision, firstly, is already available in English, was translated into Ukrainian and is available on the Council of Europe Office's website. Under this decision, the state of Ukraine was not recognized as one violated the human rights – in this case, the rights of the applicant. But it is very important that the decision raised the issue of the scope of the positive obligations of Ukraine. In that decision, it was stated that the scope whether the state has fulfilled its full scope of positive obligations, whether has it taken all measures to protect its citizens, is the subject

of consideration by the European Court of Human Rights. You can most likely expect that the same issue will be addressed in the analysis of pension cases. **There are some pension cases in the European Court of Human Rights, one of them – the Case of Tzezar and others vs Ukraine.** This is a case which has passed the stage of communication, and as soon as the first decision of the European Court of Human Rights will be made, **it will give a new impulse for the discussions and new impulse for the dialogue on the legal obligations of the State under the European human rights protection system.**



Accordingly, about 400 cases concern the Crimea, and about 3,500 cases concern the conflict in the east of the country. These cases are the cases concerning the damage to property. And it is clear that **Ukraine should already be aware, and the majority of lawyers and politicians are aware that all issues related to compensation, restitution are to be considered by the European Court that will take a legally binding decision within the European human rights protection system.** There are still no decisions made on those issues, but there are court decisions that give an orientation for European lawyers on the amount of evidence that must have been presented under the relevant cases. This is the issue of access to justice, and **there is already some dynamics – the**

And also these cases are on the issue of discrimination, the issue of participation in local elections. **More than 150 cases are the cases concerning the disappearance, murder, kidnapping of the applicants' relative, of body injury, as well there are 250 cases involving the disappearance of militaries during the conflict in the East.**

Therefore, these cases are the inevitable course of events, because it was the continent of Europe that has created an effective human rights protection system, and the unified practice of the European Court should be taken into account at the level of national courts. And the judges agree to take decisions in accordance with the

Constitution and standards of the Council of Europe.

Finally, I will pay attention to the fact that the **Parliamentary Assembly of the Council of Europe has repeatedly expressed its position in the part of Ukraine's obligations to do everything possible to ensure that the daily life of the inhabitants of uncontrolled territories and displaced peoples in all areas should be simplified by reducing the administrative complexities of access to pensions,**

Jasminka Džumhur,

Human Rights Ombudsperson of Bosnia and Herzegovina

Thank you!

Good afternoon!

It's my pleasure to be here today. Please, allow me at the beginning to congratulate the Ukrainian Government and international organisations for organizing this forum for the discussion of the pension issues. Bosnia and Herzegovina has also developed this matter immediately after the war then international presence in Bosnia and Herzegovina was very high. But since 2006, it looks like the Government has forgotten its obligations to consult with the society, and as a result, there are many problems in the implementation of laws adopted without proper consultations. Why am I saying that? Because **you are at a critical moment in the development of your pension system – the adoption of new legislation. And if you make mistakes in this process today you will have very negative consequences in all areas, including the judiciary.**

The former Yugoslavia consisted of six republics each of which had its own independent pension systems. The principles of the pension systems were equal, but people enjoyed the right to a pension under the pension systems of those republics; there were also very clear transferring principles if people worked in different republics on different periods of their working experience, and by the end, they formed a very functional pension system.

During the conflict of 1992-1993 and 1995, Bosnia and Herzegovina was divided and recognized as an independent state which had occupied territory. There were Serbian autonomy regions out of the control of

social assistance, and to facilitate their access to justice. This is the well-known item 17.3 of the Resolution of the Parliamentary Assembly of the Council of Europe No 2133, which relates to remedies for human rights violations in the uncontrolled territories. This item is well known to the state and the government, and this is the position that will help to ensure that the state of Ukraine would move towards to fulfilling its obligations in the field of human rights in full scope.

Map of former Yugoslavia



Map of Bosnia and Herzegovina



regular institutions. And the key issue is whether the people who lived on these territories wished to apply to regular organs? I would express my opinion and say they didn't, because this was a way of recognition of the jurisdiction of that state. And now thinking in the Ukrainian context: **do people who live in the temporarily occupied territory have an intention to apply for the pension to enjoy their rights? If they do, it means that they recognize the jurisdiction of your state. And now, if you adopt the law to identify their rights only as IDPs, you'll immediately determinate them out of your jurisdiction, and you'll send them a message – a very negative message: “you're not our people, you're not our citizens”.** And how can you expect a peaceful integration if you do that?

This scenario was in Serbia with the Autonomy Region of Kosovo, which was an autonomous region also in the former Yugoslavia. Kosovo was not a republic; it was a part of the Republic of Serbia with a very high autonomy. After two conflicts, accompanied by human rights violations, in particular, in 1999 accelerated by the NATO intervention, the Serbian Government decided to pay pensions and other social benefits only to the IDPs who went from Kosovo to Serbia and they forgot about the people in the territory of Kosovo. And after that when I worked in Kosovo I heard that 'they decided to leave jurisdiction over Kosovo'. And you need to think once again, because it is not a good human rights decision, it is not also a good political decision.

As I said, there were several separated pension funds in the former Yugoslavia, and only one fund was on the state level – it was the former Yugoslavia Army military fund. All soldiers, military officers received pensions from that fund. And there is a decision of the European Court related to that because the military officers on the territory of Bosnia and Herzegovina arose some questions on their pensions. Bosnia and Herzegovina recognized military officers' right to pension, but not in the amount they received from the former military pension fund and they applied for. And they lost their cases, because the Court took the position that they didn't pay contributions to the pension fund, and they can't ask for the property right because they didn't contribute to that. And in the end, they received social benefits, – not in the amount they expected, but they received.

After the dissolution of the former Yugoslavia, there are several bilateral agreements concluded between all our states, according to which each state since the recognition of the independence has obligation to pay a contribution to a pensioner in an amount of

base of years which that person spend in the pension system of that country. That means if that person paid the contributions that person has a right to enjoy pension rights. What happened in a transition period? Many people applied to different funds and received pensions from different funds, and when agreements were signed many of them were obliged to return double received pensions.

Today we still have very serious problems related to pensions. On an annual basis, we received from five to ten percent from the total number of all cases related to pension. **But in 2010 all the people from the Balkans region signed the Agreements on cooperation in Sarajevo – they are called the Sarajevo statement, – and basing on these agreements we are exchanging pension cases: the ombudsman from Serbia can transmit a case to Bosnia and Herzegovina, and we push all our authorities to finish the case related to a pension of a citizen who has worked in different Republics** because without the calculation from all the republics where the person worked it is not possible to get the pension.

How does the example of Serbian authorities look today? **Today from the Pension Fund pensions in the amount of 44 869 are paid to people out of the territory of Serbia.** Most of them are in Bosnia and Herzegovina – 19 647, and in Croatia – 2 000, in Montenegro – almost 6 000. **It wasn't easy to adopt the decision to provide the right to a pension for persons who someway occupied your territory, in some way killed your people.** Many pensioners were directly involved in the occupation of the territory, some of them are war criminals, there are judgements against them in the Haag Tribunal. **But you can't stop them to enjoy pension rights because it is a property right.** And if you do that what the results will be? It takes time, maybe the Government calculate that in some cases that some of these people are very old, the judiciary is very slow, and if they take a case to the court, it will take lots of years, those people will pass away. After they lost their suits in domestic courts, they can apply to the European Court, but they don't speak the language, they don't have the knowledge, and so on. And under that calculation, the state will have only two thousand people to pay pensions. That calculation is not a good one, it's not good for the image of the state.

I would like to say some words about what can be violated if you don't ensure all the people on your territory with rights to pensions. Look from this perspective, if you don't allow people from the temporarily occupied territories enjoy the pension

right or if you link this right with the status of IDPs – do you do that also to people who are living abroad? in Germany, in other countries? If you don't it means that there is a real issue of discrimination.

Bosnia and Herzegovina is a very complex, monstrous state for citizens. There are two entities, one entity has 10 cantons, there are 14 constitutions, and 14 legal systems. The pension system is on the entity level. Republika Srpska is something that was recognised by the Dayton peace agreement. Before that, it was occupied territory. Pensioners who went from regular territory of Bosnia and Herzegovina into the occupied territory of Republika Srpska applied for pensions, and they had the intention to create its independent system, and therefore they tried immediately to establish all institutions, including a pension fund, and they recognized those pensioners with a very small amount of a pension, based on two witnesses because they didn't have access to database of pensioners. And in the Federation, they continued to pay them pensions in accordance with the pension system.

In 2001 we had a serious problem because pensions in the Federation were higher than pensions in Republika Srpska. Many businesses from Republika Srpska had the intention (as IDPs, as returners) to enter to the Federation pension system. And to find a solution there was an Inter-entity agreement, but not only because of the pension but also because of the health, taking into account that status of pensioners is also a condition for many of those people to enjoy the health right. If they are not recognized as pensioners by that State, they cannot enjoy their health rights.

And in the end, it was important to establish the bank system so the people can receive their pensions through banks, but there is always a possibility for manipulations. To be honest, you need to prevent your system, not because of the State, but for the citizens who are participating in the system. Many people passed away but their relatives, if you are sending pensions to the bank system, continue to receive their pensions, and that is for there are periodical

verifications, which take place every 6 months, to register or notary prove that they are alive. And definitely, **it is very important that you take into consideration not to allow any manipulations within your system.**

Here are some reasons why people complain to us. It is the length of proceedings for the second level body instance, abolishing decisions and returning cases. And we're saying: don't do this, it is a ping-pong, finish those decisions; and there is also a problem in an implementation among the States, and so on. **But we have a good cooperation with pension funds, we are pushing them, we are aware that they have a big backlog, but people must enjoy the rights, and also, as I said, we have these agreements on cooperation among governments of the region.**

A person has to enjoy his pension rights. It is something that you prescribe in the law and you can't change that by resolutions, statements, or documents of the Government. Technical problems cannot justify the non-fulfilment of the pension rights provided by law.

There are following possible solutions to the problem of contact with the citizens on the uncontrolled territories. The **first solution is, as to the Georgian model, the need to appear every 6 months, but it is very difficult in case of old age pensioners, limited mobility people, etc. Another way – to bring your mobile staff into the temporarily occupied territory, using the technical assistance of the international organisations. Or the third solution – to use international organisations directly to complete the technical work, periodically verifying the identity of these persons.**

To conclude, **consultations, the participation of citizens are very important**, and take into consideration that it is a way how you should stand the jurisdiction of your state and allow people to enjoy their rights.

Thank you!

Stanislava Ilchenko,

Lawyer, the European Court of Human Rights

As already mentioned, the European Court did not consider a single case against Ukraine on these issues. Therefore, I will try to briefly as possible within the remaining time talk about it. In general, **the pension cases fall into the category of property matters. The Court considers these cases in a specific analysis model, this scheme is almost always the same**, so we can say that in these cases, the Court will seek the answer to a particular question. That, in fact, this scheme of analysis will be concerned in my presentation. I could, perhaps, specify the statistics first.

According to the official statistics of the Court, **to July 2017 were registered 3700 applications regarding various issues of events in eastern Ukraine and Crimea. Of those cases in which a main complaint, or one of the complaints concerns the suspension of pension payments – about 500 cases.** It is difficult to derive a more accurate number because, as a rule, the applicants raise more than one complaint.

The right to property is guaranteed by Article 1 of Protocol I to the Convention, including social payments, pension payments. It can be briefly mentioned that **initially the Court recognised only those payments, only those pensions that are financed by contributions and a system of contributions**, i.e. when the insured person makes any deductions to the Pension Fund – only such payments give grounds to say that the person has legitimate expectations of receiving pension payments in the future. And this means that they are protected by the Convention. Then **the practice has changed as a result of various complex mechanisms of funding pensions**, as there are 47 member states in the Council of Europe, and each state has its own distinct social security system. In particular, **in 2005 in the decision on the Case of Stack and others v United Kingdom the Court held that the right to receive payments can be established, if legitimate expectations are based on the provisions of the law, and these provisions are formulated with sufficient precision, prescribing the conditions under which the person gets that right.** Why is this important? Because the first stage of the analysis, in fact, would be that, if there is a right protected by the Convention, when a man complains, for example, on suspension of any social benefits. And here is one more important reservation that if this property interest is based on the provision of legislation – legislation in a broad

sense, not necessarily on the norm of law, and by-law, perhaps – the Court says that this national legislation should be sufficient clear. That is, a general principle that has constantly been repeated in different cases, that if there is a dispute at the national level about the correct interpretation or correct application of national legislation, and the applicant has one position, and the national courts have considered and adopted a different position, it says that the applicant in principle did not have a legitimate expectation, because the national legislation was not sufficiently uniform.

This can be illustrated by the example of Ukrainian cases. We have the Case of Kolesnik and others against Ukraine, which did not concern pensions, but social benefits. And the Court considered the national legislation, in which there were three norms: the norm of the Law on Social Insurance, which provided for one level of these payments; the norm of the State Budget Law, which said that the same payments should be paid in a different amount; and the rate of resolution of the Cabinet of Ministers. And the Court concluded that the applicants were not entitled to the payment of the amount in which they claimed. And the same principle applies to pension payments, and the Court also repeatedly said that there is no right to pay a pension in a certain amount. But then, as a rule, if at the first stage, the Court concludes that there are rights protected by the Convention, it considers whether the interference – intervention in this category of cases is understood as reduction of payments – and further whether this interference was legal, based on legislation, whether it pursued legitimate aim and whether it was the one that establishes a fair balance between the interests of society and the interests of the individual.

In terms of legality, again, the idea of this principle is that interference cannot be arbitrary, it must be based on the norm of legislation, and such a rule should be accessible, it must be published in order (for example, published in the official press organ) and should be formulated fairly clearly.

And, in fact, **the Court has considered a case with regards to the suspension of payment of the pension.** It was the Serbian case Grudich against Serbia, which concerned the suspension of payments on the territory of Kosovo, where the international administration was introduced in 1999, and the Serbian government said that they had no control over

this territory. And in this case the government has raised several arguments, including one of them that their pension fund system provides for the principle of current financing, ie they collect pension contributions from which pensions are paid to people who have already reached retirement age. And since they did not have access to the territory of Kosovo and there was no possibility to collect pension contributions there, that is, pension contributions were not received, therefore they also suspended the payment of pensions. And as they talked about the fact that this measure is aimed at preventing a situation where people will receive a double pension – as on the territory of Kosovo, as well as citizens of Serbia, the Serbian pension fund. And in this case, such an analysis scheme was used, of which I began to speak.

And the **Court concluded that the suspension of payment of the pension by the Serbian state was illegal, because this decision was made on the basis of documents issued by two ministries** that were called something like “advisory opinion”, and took into account also the decision of the Serbian Constitutional Court, which spoke that the various opinions and instructions issued by the ministry are not legislation, and the decision of the Supreme Court of Serbia, which also said that any suspension of payments on the territory of Kosovo should only be in accordance with the Law on Pensions, and there was only one condition under which you can suspend payments, and in this case it was not applied.

And so, **the European Court came to the conclusion that the legislative and judicial practice in the state was such that these documents issued by the Ministry could not be considered as an act of legislation on the basis of which it was possible to suspend payments pensions to citizens.**

Therefore, we found violations of the Convention, and, accordingly, the further stages of the analysis have not been carried out, and we have not received answers to these questions. And the next stage – whether the intervention pursued a legitimate aim, and, as a rule, states can easily justify all questions about reducing pension payments, what legitimate objective such a reduction could pursue. They say that this is the maintenance of economic stability in overcoming the consequences of the financial crisis, the limited financial resources, and further, as if the most such global phase of analysis is whether such reduction was proportional. That is, this is the stage when it is already taken into account the various interests: humanitarian, social, economic situation – and here also there are a number of important Fundamental Principles.

Firstly, the Court recognizes (and this practice is increasingly confirmed in recent years) that the state has a very wide scope of discretion in various social issues, and that in principle, national authorities have more opportunities than international judicial instances, in order to assess the needs of the society and what measures should be taken to meet these public interests at this stage. But in terms of whether they are proportional or not, the Court uses the so-called test of infringement of the very essence of pension rights. In practical application there is a difference between, for example, whether it is a question of the complete termination of payments, or about the reduction of some extra charges and some privileges. And in a number of cases (again Serbian cases concerning the payment of pensions to pensioners who continued to work and in a number of Islamic cases) the Court found a violation of the Convention, but with the reservation that the Court could have reached a different conclusion if the respondent State were not fully suspended payments, and would introduce some reasonable proportional reductions. Or in one case, the Court also said that if the state provided an opportunity for some of the transition period to the applicants to adapt to the new scheme of payments. This is one of the moments.

There is also a difference between the main amount of the labor pension, which is the only source of income for the applicant, or they are various privileged schemes (some extra charges, indexations, recalculations due to different coefficients, etc.). For example, in Georgia’s case Hanyakina vs Georgia applicant was a judge of the Supreme Court of Georgia, and at the time of her retirement legislation provided that it was entitled to a pension equal to the last salary at the time of her employment - a lifetime pension. Then the legislation changed several times (although she received such a pension), and the last wording stated that this is a fixed amount in recalculation for the euro – about 500 euros. And she began to receive this fixed amount. She appealed to the national court, then to the European Court of Human Rights. And in this case, which became well-known, the Court often refers to it in practice in other cases, Georgia’s position, the respondent state, was very well grounded, which said that initially this system of privileged pensions was aimed at paying tribute to the members of society for special merits – in this case, the judges of the Supreme Court. Then, in the state, there was a need to carry out a global scale reform that affected various strata of the population, including the applicant, and there was a need to choose: either they continue to keep the privileged pensions at the same level – but then

for the less protected groups, the total pension will have to be reduced to some absolutely miserable level, – or either these levels, common and privileged, will not be equalized, but somehow approaching each other, and financial resources will be distributed more proportionately. And they chose the second position. And the Court, taking into account all the factors that I mentioned above, said that there were no violations of the Convention as the reduction on payments were proportional, because, firstly, the decline was part of an ambitious financial reform, and, again, with taking into account the discretion of the State and the complexities of socio-economic policies and measures that a State can choose, the Court also took into account that the applicant did not lose her pension in full, that it was simply a matter of reducing the payment, what I had said before, and, in addition, that even after it her pension still remains 12 times higher than the average pension in the country, ie it is in some ways still retained their privileged status.

Another thing I would like to conclude by saying a few words about the fact that all of these principles, of which I now speak, are summarized in the judgment of the Grand Chamber, which was adopted September 5, 2017, a fresh ruling in the Case of Fabian vs Hungary. It again dealt with pensions, but a slightly different aspect: the suspension of pension payments to retirees who continue to work, when a person reaches retirement age, but continues to work. But the principles that we are talking about, they are applied in general in all pension affairs or in all cases concerning social payments. And in this case (the Case of Fabian), the Court again

summarized the principles and on the basis of this analysis, said that should take into account three factors, that is, the question of proportionality into account three factors. The first factor is the degree of damage suffered by the applicant. But here we come back to, for example, if it was 100 % reduction or in some percentage. The second is the element of choice, the choice for the applicant. In this case, this was relevant, because working pensioners had the opportunity to choose, for example, to completely switch to pension provision, or to continue to work and receive wages, i.e. it was the decision, accordingly, of the applicant, in one way or another, to act. And the third point is how far the applicant had alternative sources of income and how much the loss of pension benefits, which he was deprived of, how much it affected his situation.

And, perhaps, this time as the last of such remarks, **there is one case, communicated to the Government of Ukraine – the Case of Caesar and Others vs Ukraine. The Court has set some questions for the Ukrainian Government to comment. And, in particular, one of the questions was about whether the interference was necessary in order to achieve the public interest, as well as whether the applicants had access to national courts in order to challenge the measure in view of the fact that the courts have been transferred from the military zone conflict. Therefore, these questions give an idea of how this case will be considered, what the stages of the analysis will be, and what issues the court will look for.**

Thank you!

Maryna Pochhua,

Association of Women-IDPs, Georgia

Good afternoon!

First of all, I would like to thank Donbas-SOS, because it is very important, as my colleague from Bosnia and Herzegovina said, when the society starts talking about a particular problem. If the society is silent, the problem is postponed for a long time.

Special thanks to NRC for the opportunity to meet and discuss this topic – it gives hope that the government will hear it. NRC is known for many good activities in Georgia, and special thanks to you for this.

I'll try to quickly provide some information. For more than 20 years my organisation, the Association of IDPs, has been working on the problems of IDPs. From the very beginning, we were organised exactly by IDPs from Abkhazia, and the problems that concerned the IDPs were always relevant for us. Among the several ongoing projects we have two projects concerning the elderly IDPs and local communities, and therefore the materials that will be provided by me, based not only on finding those official data that exist, but also on the experience of our Association.



Georgia is a small country with a population of less than four and a half million, and Georgia has two large conflicts, as our Deputy Minister said, but let me repeat – it's Abkhazia and South Ossetia. According to the Ministry of Refugees, as a result of the 1992-1993 war, 232 500 IDPs from Abkhazia are registered, and as a result of the war in South Ossetia in 1989-1991, – 35 500, and as a result of the August 2008 war, the Russian-Georgian war, – 26 733 IDPs. In total, **as of March 2017, 274 611 IDPs are registered in Georgia.**

Today the state spends about 120 million lari a year on IDP benefits. Over 1.6 billion lari are annually spent for pensions. Since the 1990s, the problems of IDPs and refugees, including pensioners, have been on the agenda of all governments. But, unfortunately, for today these problems are not completely solved. There are many ministries that are relevant to the IDPs, it is, first of all, the Ministry of Refugees and Resettlement which is responsible for regulating the flow of distribution, ie housing, temporary or permanent, for the condition of a stable source of living, and a little bit of social protection. The main structure, which is responsible for social policy is the Ministry of Labor, Health and Social Care.

What is the structure and system of protection of IDPs pensioners? **In terms of protecting the rights of older people in Georgia, the current situation still does not meet international standards.** Unfortunately, according to the Ombudsman, the majority of older people do not have adequate living space, do not have adequate social services, access to adequate social services, mechanisms of protection.

There are several legal acts regulating pensions in Georgia. It is, first of all, the Decree of the Government of Georgia on 23 July, 2013 on the definition of social package; the Law of Georgia "On the state pensions", 2012 (the first law was passed in 2005, and after

the former Soviet Union it was the first law that any regulation introduced). In 2016, May 27 the Ministry of Labor, Health and Social Care developed a plan of action that has been entrusted to the conception. Unfortunately, this plan of action is still not there.

Since April 2014, IDPs were integrated into a universal public health programs, including all the rules and all the regulation, relating to the award of public and social services, and relating to IDPs, too. Age pensions are awarded in Georgia since the age of 60 for women and 65 years of age for men, since the early 90s pensions range from 14 lari to 108 lari today. Lari is a Georgian national currency, the rate of which is on today – 2.4, from about 70 to 75-76 dollars. If you consider that the cost of living in Georgia is 169 lari, it becomes clear that the problem exists. So, **pensions in Georgia are more like social assistance, not pension itself.** Social packages which can be added to the pension age (they define the scope, conditions, number of persons), regulated by the Decree No. 279 of July 23, 2013. In Georgia, there is also a status of the highlands which was awarded to certain settlements and is very valuable that pensioners in these settlements receive additional 20 % to existing pensions, and is, if an ordinary pension is 180 lari, in this region pension is issued at a rate of about 206 lari.

As already mentioned, **IDP pensioners are involved in all state programs of health inpatient and outpatient type – this is a general health program, the program emulation hepatitis immunisation, tuberculosis, HIV, drug abuse, diabetes, dialysis, etc., – and yet retired IDPs often find themselves in quite difficult situations.**

It should be noted that there are government agencies in exile – the so-called "Abkhazian government" and South Ossetian structure. And the Ministry of Health of Abkhazia in exile, regardless of the Central Ministry, has its own programs for IDPs and pensioners who do not have the status of socially unprotected. This is very helpful to many IDPs. Which categories of citizens are these pensions appointed to (including IDPs)? As already mentioned, these must be 60 and 65 years old citizens of Georgia, as well as persons who have the status of stateless persons and foreign nationals who reside in the territory of Georgia the last ten years, and those with dual citizenship. It is very important for IDPs because many IDPs from Abkhazia have moved to Russia, for example, and received Russian citizenship; automatically lost the Georgian citizenship, they must appeal to restore the Georgian citizenship to the President of Georgia, and then they can get already Georgian pension, however, they must

provide a certificate stating that they do not receive a pension in another country.

It is not necessary to apply for a pension at the place of registration, it is possible to submit documents in any local welfare authority. It is necessary to provide proof of identity and a certificate from another state that they do not receive a pension. Ten working days are sufficient time to get the answer on the appointment or failure in receiving the pension. At the beginning of each month people get a pension.

What restrictions are there, when a pension may be suspended or withdrawn? First of all, on the basis of personal statements; working in government agencies; after a court decision to prosecute; after the expulsion from the country of persons with dual nationality; after the exit from Georgia nationality; after death; when receiving other state compensation – this is very important because there are different packages that govern social assistance. The pensioner is entitled to receive a pension only in accordance with the Georgian legislation and additionally receive social assistance in accordance with the Georgian legislation.

You can receive a pension, as I said, only in the territory of Georgia. And **I want to stop on the Gali district and the Akhagori region – the de facto border areas with Migreley, Georgia, where more than 25 000 families live. These people need to cross the border to submit documents, to receive a pension, and then they can get a monthly pension in the Liberti bank – the bank, which is responsible for the pension, and all components of social assistance, which are provided by the Georgian government. To provide people with this aid, mobile minibanks arrive to the borders. It is necessary to say that there is a practice of proxy Skype in Georgia for the past few years: people in uncontrolled territory may contact a lawyer through Skype and in the presence of two witnesses give a power of attorney that is valid for one year.**

What are the disadvantages? **Pensioners from uncontrolled territories should go to the place of registration, and, unfortunately, it is impossible to trace the dead souls in the territory of Gali and Akhagori district.** To the credit of the Georgian government, it must be said that the **state does not leave pensioners in uncontrolled territory: it is enough to receive IDP status in order to receive a 45 lari assistance and to provide all documents submitted by law to obtain a pension, and, going across the border, they can get this help.**

Despite the fact on which side the current situation is evaluated, **the current pension system has to change in order to have an opportunity to provide a dignified old age to our fellow citizens, including IDPs.** This pension is so low (180 lari) that very often it is not enough for medications. Pensioners are very often the main breadwinners of the family, and therefore it is necessary to take into account many of the realities.

What are the problems? As I showed, over 44 000 pensioners over 65 years are almost without any assistance, except these 180 lari. Therefore, **non-governmental organisations agree that the reform should be, but it should be painless, it should ensure a smooth transition to a different model.**

Models of pension reform proposed by the Government of Georgia and the trade unions generally comprise one basis social pension and the second funded pension. However, it will be complicated for the IDPs, because a very large percentage of the IDPs does not work, moreover, many people over 50 years who still do not get a pension are unemployed. Hence, there arises the question: from which funds their pensions would be accumulated. Therefore, in 2002, there was an initiative of the Abkhaz government-in-exile to classify the years of IDPs unemployment as continuous service. Unfortunately, this initiative was not adopted.

Thank you for attention!

Aleksandr Zubko,

Human Rights Lawyer, Moldova

In 1994, after 4 years of the Transnistrian conflict, Moldova adopted the Constitution which, surely, proclaimed an integral and neutral territory. Laws on social benefits were adopted in 1998-1999. But unlike other countries, **Moldovan legislation does not contain the term “citizen”, because the Government has fixed the term “person”, and that “every person residing in the territory of Moldova has the right to social protection”, and we are proud of it.**

In 2005 the Government of Moldova offered to Transnistria an autonomy status like in Gagauzia. In its response, the Tiraspol Administration used this law in their favour referring to it as to the recognition as a separate country.

What do we have now? **We have at least 26 years of peaceful conflict – peaceful, because, as they say in all international forums, we do not shoot in Moldova.** During the 23 years Moldova has tried to do everything possible to settle this conflict, but we have the same old problems in the 2017: the peacekeeping force, the Joint Control Commission, negotiations in different formats (of 5+2, of 1+1, 3+2), and so on. International assistance was very slow, but **in the end, the international community and all donors realised that there was nothing to do to solve the conflict**, except for the Russian humanitarian aid, which, of course, still exists and is perceived with open arms.

The boundary of Moldova and Transnistrian region runs along the Dniester River. De facto there is a constitutional administration (or Chisinau administration) and there is an illegal administration (or in fact, it is the administration of Tiraspol or Transnistria). **Two different forms of government, but they are the same if we take into consideration the social problems, they are built on the principle of solidarity, except for one thing.** Tiraspol still keeps the retirement age of 55 and 57 years old. What for? In order to reach the retirement age, citizens of Moldova just took the Transnistria pension, because the retirement requirement in Moldova is for 2 years more, according to the new law it is up to 60 years or more. Therefore, **the decision of Moldova’s residents on registration of pension in**

Moldova or in Transnistria was determined in many ways by the difference in the retirement age. The legislation of Moldova provides the retirement age by 2 years higher than in Transnistria. And this slight shift made a great influence on the social security.

Another principle is the principle of non-interference. The Government of Ukraine should take this point into consideration. **In the pension payment issue, Chisinau comes out from the fact that as Tiraspol has its own budget; it must fulfil its social obligations in relation to the territory it controls. Moreover, seeking to enlist the support of the local population, Tiraspol offers a greater amount of pension – about 100 dollars, while Moldova – only 80 dollars.**



The principle of distinction of citizens into “ours” – “not ours”. **If people have received the Transnistrian citizenship because they simply need to live there, Chisinau says that they are the citizens of the Transnistria and Tiraspol says the same that they are Moldovan citizens. This is the principle of division.**

I called the next principle the “pursuit” – the pursuit if we return to these settlements. Tiraspol categorically needed the settlements, so they joined them just by social concerns. Those residents living, as you can see, on the Right Bank were lured by pensions because they all worked at the enterprises in Dubossary on the Left Bank. And Tiraspol offered them a larger amount of pension – about 100 dollars,

while Moldova offered only 80 dollars. And of course, all of them went there for the Transnistrian pension. Remember this, because people will run to the place where the pension will be more.

Further. There is a small village inhabited by the patriots of the Republic of Moldova, who flatly refused to take the Transnistrian pension. What is the solution found by Tiraspol? They prohibited to enter the PMR. Entry is possible only on the dam and there is the official post, and if you are not a citizen of the PMR it means that you have no right for entrance.

And there is one more thing, there are 1992 veterans who fought for Moldova, but they live on the Left Bank. It is very interesting. Let us imagine two courtyards where a veteran of the Transnistrian war lives and Moldovan veteran lives, then they are patriots, but patriots of different sides. And Transnistrian veteran receives all the benefits, and each time for September 2 and March 2 he gets all sorts of social benefits, and

policy of Moldova and they wanted to reunite with Transnistria. Of course, Chisinau was just scared because it did not know what to do. And Chisinau quickly appointed another surcharge of 50 dollars as long as these rebel settlements did not pass out and its people did not take a pension from Tiraspol.

Some statistics. Approximately 200 000 pensioners who are Moldovan citizens live on the Left Bank, but only 20 of them receive pensions from the budget of Moldova, i.e. Moldova gives the pension only to 20 citizens from the Left Bank.

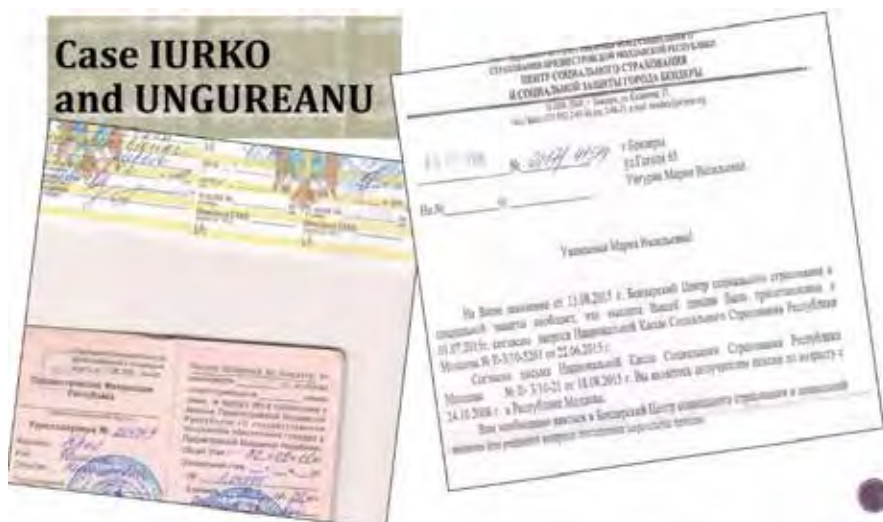
As I have already said, we have an excellent format of negotiations on the social issues. In November 2013, the Republic of Moldova and Transnistria in the framework of this negotiation format signed a Protocol Agreement on transferring data in the social sphere to both sides. That is, Chisinau and Tiraspol are currently exchanging data on the pension status of people. This agreement came into force in 2015 and caused new problems to recipient of pensions which became the subject of the suit case.

The first case concerns two women, Ungureanu and Yuri, who worked in state bodies of the Republic of Moldova, but they lived in Bendery on the territory of Transnistria. They received pensions both from the Transnistrian region on the basis of service length storage accumulated in the Soviet era, and from Moldova on the basis of experience which they have received during the work in state bodies of Moldova. On the basis of this Protocol Agreement, at the same time, in 2015 they received the notification from Moldova and Tiraspol

that they illegally received pensions and they had to bring pensions back. In addition, for the period of two years they had to return about 10 000 dollars. Moreover, they had to return pensions to both budgets because both Tiraspol and Kishinev claimed this money. We protested these acts, this is a pending case now, but unfortunately, Ungureanu could not wait for the decision because she died this year. However, in Tiraspol, they filed criminal cases against them because in Tiraspol they found that these two women committed a criminal act deceiving the Transnistrian budget. It means that Yuri as Moldovan police officer is now under the criminal procedure and she does not know what to do, the same time and Chisinau does not know what to do next.

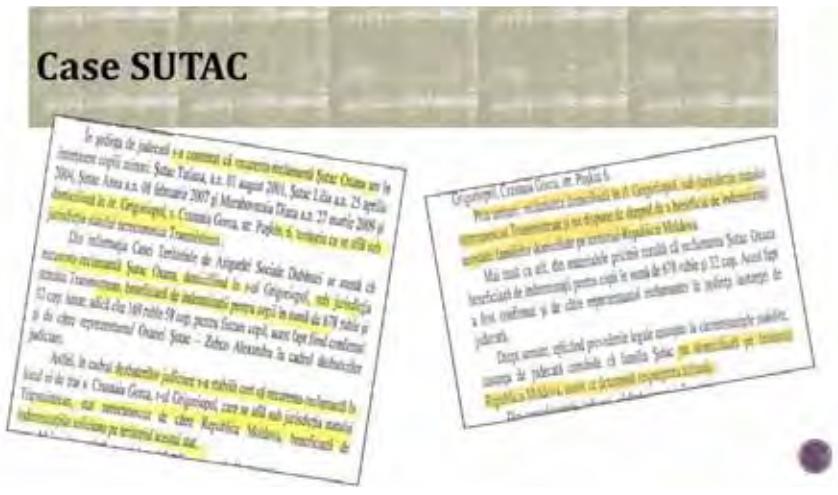
the Moldovan receives nothing. And now imagine how they live in terms of humane issue.

There is another very interesting point about the residents of the village Dorotskoe who rebelled in 2014 (when Moldova relaxed, it thought that everything is already decided and the conflict is resolved). Although they are under the control of Moldova which provides that 5 000 citizens with all social benefits (they have free gas there, all the benefits and pension supplements, supplements to wages, – so, the Ukrainian Government should take into account the situation that excessive social care does not lead to the situation when citizens will cooperate or become patriots of the state they live in), they rebelled because they didn't agree with the



In the Case of Shutyak, the plaintiff, a mother of four girls who were born as citizens of the Republic of Moldova, but they are from Grigoriopol and they live on the territory of Transnistria, asked for aid from the Government of Moldova for children because they are Moldovan citizens. Unfortunately, the Moldovan government has denied them in any kind of social benefits. We protested these acts and filed to the court. It was unexpected and the court stated that as she lives on the territory of Transnistria, she should receive a pension from Transnistria. This decision was upheld by the Supreme Court. We filed the case to the European Court of Human Rights.

There are no provisions in the Moldova’s legislation, which clearly provide for the possibility of depriving its citizens of the right to receive a pension, because they receive any pension payments from the funds of the unrecognised Transnistria. However, the Moldovan government is considering the pensions received in Moldova and the pensions received in Transnistria as the two pensions, although there are no legal provisions for the “Transnistrian pension”. In my opinion, **any payment, any pension benefits paid by the administration of Tiraspol must be considered only as private ones.** While these payments in



Transnistria do not fit into any legal framework, they can be considered by the competent authorities only as private cash benefits. Therefore, they cannot be taken into account when determining the aid and do not give a legal basis for the denying in social security to citizens living in Transnistria. However, Moldova has chosen a way not to pay pensions to its citizens, what is the way to disintegration. And even if in the Donbas and Lugansk such payments will be paid, **Kyiv government should treat them as private payments, and on this basis, the Ukrainian Government should not deny its citizens their right to social protection.**

Thank you for attention!

Solutions for Ukraine: mechanism of payment of pensions to people residing in NGCA

Valeria Lutkovska,

Ukrainian Parliament Commissioner for Human Rights

Good afternoon!

I am sorry that we were not present during the first part, although we watched the impressions that were expressed through Facebook, and we know what was going on.

Fortunately, for me, as I understand it, you had an opportunity to talk here with my colleague from Croatia, which actually expressed the idea we completely share together. And I am aware, of course, of the further negotiations, but I've already heard the main message she expressed: **it is unacceptable for the state not to pay money, not to pay pension payments, social payments to the people living in non-government-controlled territory.** The question not only lays in the fact that it will have further consequences concerning judgements of the European Court of Human Rights which the state will have to fulfill, and so on. This has implications for us too, because, as I understand it, my supporters are mainly present here, and you know it perfectly well: to offend one pensioner in the family means to offend the whole family. And when we speak today about reintegration of Donbass, we should understand that this process includes promises that state gives to the uncontrolled territory of Ukraine. Therefore, **if we really want to reintegrate, we should ensure the understanding by the pensioners, entitled to receive a pension, of those mechanisms due to which they are able to receive it;** and a certain apology from the state concerning that it did not pay pensions for three years. However, all of this, of course, is good, great words, great declaration – the question is now: how to do it? Actually, today, as I understand it, the Vice-Minister for the temporarily occupied territories, Mr. Tuka, has said that his team has spent a lot of time looking for the potential mechanism of how to do it and so on. Yes, of course they do, but, unfortunately, **today we have a situation where three years have already passed since the moment when the territory has become uncontrolled by the Ukrainian Government, and pensions are not being paid.**

Did anyone pay attention why three years are crucial in this regard? I'll explain why I put a question this

way. In fact, **according to the pension legislation, if the issue remains unresolved within three years, limitation of actions and certain restrictions, which exist in this legislation, turn on and people loses the right to these pensions.** And, if we here today want to send the right information promise to the uncontrolled territories if we really want to ensure that these people get their pension we've got very little time to rearrange the situation and to establish this mechanism. Therefore, I absolutely agree with the fact that **such a mechanism should be worked out very quickly.** We have lost a lot of time; we are already guilty for these people. However, I think that **this mechanism should be worked out in frames of existing legislation.** And I am convinced that there is enough of this legislation for today. And I can prove it.

In particular, we are talking about **the art. 46 of the Constitution of Ukraine, which guarantees the right of everyone to social security benefits and social security,** and I am sure to invoke the respective sections of **the Law "On Compulsory State Pension Insurance", according to which there are no legal grounds for not paying pensions** (by the way, we are talking about it quite a long time by now): **there is no reason not to pay pensions in the territories that are temporarily out of Ukrainian Government control; there is no reason not to pay a pension concerning the anti-terrorist operation, and so on – that is, there are no such grounds in the law.** And only this Law, as the third part of art. 4 states, defines the types of pensions, conditions of participation, funding sources, the retirement age, norms, procedures, organisation and procedure of management, and so on and so forth.

In addition, I would like to pay attention to the fact that the existing art. 44 of the same act says that an application for appointment of pension, recalculation and corresponding documents are submitted to the territorial pension body in the form authorized by the Board of the Pension Fund. And to be honest, I do not really understand for the past three years – I am talking about it for three years for now – I do not really understand, why everyone talks about the necessity

to adopt changes to the legislation, because **profile legislation concerning pensions, contains all the necessary requirements, and it is only necessary to make amendments in the by-law acts and regulations of the Pension Fund Management.**

From my point of view, this issue could be resolved simply – if you wish. **In my opinion, this issue could be resolved by imposing appropriate competence to the regional level of the Pension Fund management, whose competence covers the entire territory of the relevant area – that is, Donetsk or Luhansk; which would carry out its functions, including creation of the necessary mechanism, register these people.**

Yes, indeed, there is a question that we do not know: the fate of these people, we do not know whether they are alive or not; these are old people, perhaps something happened; perhaps for one or another reason person has died. Therefore, they do not have this information. So, **we need to set a specific time period, which would be logical from legal point of view, and in terms of human life, concerning when an individual should appear in person, on the line of conflict, or at the appropriate department of the Pension Fund** – this is a question of detail, which is possible to clarify.

From my point of view, taking into account the legislation again, **it would be logical that an individual should appear in person once in three months.** If the term will be longer – it may be. However, once every three months, taking into account the fact that the state still provides a certain amount of pension, if this is a funeral benefit. Accordingly, in this case, three months are justified from all sides, and there is no problem with the fact that every three months the person should appear, relatively speaking, to an employee of the regional Pension Fund, the presence of life would be examined and a person will further be entitled to receiving their pension payments.

It seems to me that the question is not in how to set up the mechanism – it seems to me that the question concerns a political will. However, today, when we finally started talking about Donbass reintegration, it seems to me that the political will should appear also in the sense of solving this question, too. **It is good that there was a draft law, which was mentioned previously – the draft law No 6692. The only problem**

of this project is that there are certain shortcomings, which, on the one hand, due to the lack of political will, will turn this bill into a solid declaration; on the other hand, if a few things stay uncorrected, this will lead to the fact that this project will not work. Just a few examples.

An example of the first – is that we are talking only about the accrued amounts of pension. Are you sure that all amounts of pension are accrued? I do not have such certainty. Especially after we have held several rounds of conversations on multiple claims with the Pension Fund and in response to my questions – well, let's say, the applicant, who addressed me, just wants to know: "Well, I live in the uncontrolled territory, I do not get a pension,



Photo credit: NRC

but I want to know if the pension is accrued, and what amount of debt the state owes me on these payments." I ask the same question to the Pension Fund on behalf of the applicant and in their response, they say: "in this case, the pension is not charged." To which sums of accrued pensions we refer then in this project? What are we talking about then?

There are other things, which can, once again, reduce to nothing all good and right desires of developers of this law. For example, there is a formulation, which, to be honest, confused me. I am a lawyer, and I understand what, in fact, they wanted to say, but it seems to me that what was said, does not correspond to what is laid in the draft regulations a bit: **the authority that appoints pension, maintains a separate registration of the people living in settlements in the territory where the state authorities temporarily do not exercise their power, and the settlements located on the contact**

line. Does it mean that the Pension Fund will not register all people residing in the territory, which is out of state control? I think implementation of this rule in this way will take a long time, and as a result, the project will not work even in the case of its adoption. In addition, I am not sure, that in case of adoption of the draft in this formulation in the first reading, it will be possible to correct this part later.

Accordingly, in this case, actually finishing talking on my attitude to the problem, which is being discussed, at this conference, I would like to say that I have, in fact, two recommendations.

Recommendation one: if we talk in a manner that this project is supposed to be a breakthrough, which is necessary – well, let it be; but **it must be modified, so that it will actually work, otherwise its implementation will be called into question, and it will only remain a declaration.** It would be wrong because it is better not to give any hope than to give one that will remain a declaration.

Natalia Veselova,

Head of the Subcommittee on the issues of state social guarantees, provision of sufficient standards of living of the Committee of the Verkhovna Rada on the issues of social policy, employment and pension provision

Thank you!

I want to apologise as I need to go just after the speech because I'm heading to a meeting of the Verkhovna Rada. You know, it is difficult to add something after what was said by Valeria. And I just want to thank Valeria for protecting of the rights of citizens, equally of those who left the temporarily occupied and uncontrolled territories and of those who stay there.

The President of Ukraine presented the annual report in the Verkhovna Rada earlier today and he said such words: people who live in the uncontrolled territories of Donetsk and Lugansk are the citizens of Ukraine, and we will not conduct active combat actions in order to save their lives, that is a priority for us. I want the same thing to be said also by the representatives of the central authorities, so they do not forget that **any person who has a Ukrainian passport remains Ukrainian, and the state should guarantee him or her all the rights set forth by the Constitution and laws of Ukraine.**

On the other hand, it seems to me that **it would be more correctly to develop a mechanism that would not require amending laws, because laws today provide absolutely all the necessary grounds for the payment of pensions. And a mechanism that would respond quickly to changing situation in the country. And, accordingly, it should not be the law, but a by-law legal act. And, accordingly, it would make it possible in the case, even if some problems appear, to solve them by immediately replacing the by-law regulations of the pension legislation, but all the grounds necessary to pay pensions in uncontrolled territory, legal grounds are present – but not political will.** Honestly, I would be very happy if a political will would finally appear.

Unfortunately, it is our common task to make that the political will to pay pensions on the uncontrolled territories would appear – it is our common task.

Thank you!

Today, all the legal grounds are available to pay pensions to those citizens which are now living in the non-government-controlled territories of Donetsk and Luhansk oblasts, there is no political will. And, indeed, since February 2015 we are a very close-knit team, which also includes MPs and representatives of the Ombudsman's Office, and representatives of civil society and human rights organisations and representatives of international organisations – all are fighting for the rights of those people as internally displaced persons who suffer from this uncertainty and the government's desire to save money on pensions and social benefits, and the other people who remain in occupation and are hostages of invaders. Unfortunately, **the state simply cannot decide whether these people are enemies of Ukraine, or these people are still citizens of Ukraine and their rights must be protected.**

All along during these three years, we have tried all means to bring this issue both to the President and to the Government. Thank God, **the President**

responded, and even gave instructions to elaborate on the law, which will define the mechanism by which the pensions will be paid to the citizens living in the non-government-controlled territories. It resulted in a draft law No 6692, but indeed, it lacks a lot, and, apparently, it is due to the fact that the situation is constantly changing.

We get more and more challenges, and we ought to solve the issue not just at the state level but also at the level of some individual cases because all the time we get a certain surprise from the Government. For example, all the time we receive the information on the massive termination of a pension payments, concerning those people who have changed the place of registration, for example, a person bought a house and was re-registered in the territories under non-Ukrainian control, and he or she is forced to get a document of internally displaced persons. And when you talk to the representatives of the Pension Fund, you realise that there are some internal directives which no one talks about in public and which are contrary to the Law of Ukraine “On Compulsory Pension Insurance” and the Constitution of Ukraine. And this is unacceptable. And, unfortunately, despite we have been talking about this for three years, there is still no result.

This can turn for Ukraine not as to the economy of the state budget, but rather as to additional costs when Ukrainians begin to massively seek protection of their rights in the European Court of

Human Rights. Then we will have not only to pay the pensions that we owe to people, but also cover the expenses concerning moral damage. Therefore, our challenge now is to protect the people and to protect the state. And I want to thank all the representatives of human rights organisations that deal with this issue constantly, conducting advocacy among MPs, including government employees of these legislative initiatives – it is our common victory. Perhaps it is not



a full victory. **It is necessary to ensure that the draft law will be introduced in the Parliament’s agenda and that it will get at least 226 votes of its members.** Thus, we are somewhere in the middle of the way, but I hope that, indeed, the problem soon will be solved, and the citizens of Ukraine and the state of Ukraine itself will be saved.

Thank you!

Mykola Shambir,

Deputy Minister of Social Policy of Ukraine

Good day to everyone!

Thank you for an opportunity to participate in this conference.

You know, **I cannot tell you another thought than the fact that people should receive pension; I cannot tell another thing that citizens of Ukraine living in the territory of Ukraine should receive their money.** Another question is whether such opportunities exist because as for this matter all the problems begin and up to this we, workers of the social sphere, employees of the Pension fund, and all citizens who are related to that sphere usually have certain inconveniences. And we understand it. **Unfortunately, there is no opportunity to solve all the issues today, no matter how much we want to create this kind of opportunity.** That is why there are questions, complaints and certain restrictions. I think that after all, perhaps, some things are temporary, and some things need some more time, but we have to look for the ways to solve these problems.

That is why as for the questions concerning persons who moved from the certain territory or are in that territory, I would introduce some principles, which I personally try to apply for the solution of these questions. These principles are the principle of the fact that **we have to do everything we can just to pay people their pensions as soon as possible.** And we try hard to solve these issues in both successful and unsuccessful ways.

Secondly, **pensions are paid for the entire period, for which the person has not received it, and we try to pay attention to these issues.** Three years passed and I think that the members of the government have no doubts that these issues must be solved. And I think that **in the bill “On Intergration of Donbas” we will be able to ask these questions and they will be at least solved.** For this reason, we started to discuss such topics and some solutions were found, and some have not been yet. **Do you know that the problem was connected with the fact that we lost opportunities to pay pension in that territory, and it was in 2014?** I have dealt a lot with this issue.

Therefore, I know what difficulties arose and how we looked for the mechanisms to resolve some of them.

For this reason, **the mechanism, which has been developed today, is not the mechanism of restriction,**

it is the mechanism of how to do payments to people. It is not the mechanism of restriction; it is not the mechanism of some infringements for people; it is the mechanism of how to make payments for people. But there is one special question – if payment of pensions refers personally to the individual.

I think that nobody dissembles if he or she says that there were many cases when people who tried to receive pensions on 100-200 bankcards were caught, and as for this we have to look for mechanisms to fight against. Really, we had different situations when people tried to receive pensions with lots of bankcards. It perhaps could be done, but **we are not sure at all that this money will be received by pensioners themselves.** And I am sure that they didn't reach them, not in the whole amount at least. For this reason, we fought against this phenomenon. For this reason, **we tried to make, perhaps, some restrictions, perhaps, disturbing other people** and I clearly realise it. Exactly such a situation has arisen when all departments of the Pension fund were in the uncontrolled territory. We could bring people somewhere and they could arrive. **Many people have not arrived in any department of the Pension Fund and we could not resume complete work of these departments. For this reason, there were certain restrictions – the 637th Resolution was accepted, then the 365th Resolution, – we looked for every possibility for paying pension to an individual, and for control to prevent pensions payments if it is received not in person.**

I understand that there were a lot of questions, possibly, there was an excess control, but we would do this now too, – I want to tell that we made some changes and we tried to carry out them concerning the mechanism of payment of pensions, social reliefs to those people who are in the uncontrollable territory. That is what I mean. **The draft of the resolution which should be adopted in the nearest future (maybe in two weeks), which changes control mechanism, has already been introduced to the Cabinet of Ministers, in particular, we are resolving the issue in such a way: first, payments of pensions to displaced people are only paid through office and institutions of Oschadbank. We will keep Oschadbank as operator, but we plan that we will be able to pay pensions through institutions of other banks.** That means that the account in Oschadbank will be opened, but it will

be possible to withdraw funds in institutions of other banks, ATMs of other banks, and devices of other banks. I consider that it will assist in receiving pension and it will solve some problematic issues.

The second issue, which we want to mention, is **the identification of a person in Oschadbank once in every six months**. We will strengthen it a little and we will do everything to avoid double control system. **The person who underwent identification in Oschadbank will be informed about it, and, respectively, department of social protection will not carry out additional identification of this person. Therefore, if an individual undergoes identification constantly – every 6 months, the bodies of social protection will not double check this person again. Besides, a rather serious issue of carrying out identification of people which are employed was established.** Very often, there were situations when an individual was not at home, he was at work – **we resolved this on the basis of budgetary institutions, state institutions where a person works, from the place of reference, and this reference will be the basis for the management of a social protection not to carry out verification.** I also believe that these questions will be solved, there will also be resolved issues on the persons passing military service, respectively, and these questions are also removed. That is why **I think that this complex of changes after all will make the problem less acute, and we will try to look for other ways to resolve similar issues.**

Another issue is the problem of handicapped individuals (disabled people of the first group, people who need constant supervision), – though the Oschadbank had to bring pension at person's home, we exactly know that, unfortunately, it was not carried out by Oschadbank, and this problem was not resolved at all. For this reason, in this Resolution the issue is resolved and we grant payment of such pensions to Ukrposhta's branches. The postman which serves the territory will bring pensions to these people and will carry out these payments. So that is why **we remove this issue, there will be home delivery**, and besides I suppose that we will remove the problem as for the fact that we could not deliver pension to people, I would even tell that we had a rather big war with Oschadbank as for this matter. I hope that today we will find some ways out of these problems. That is why we are making those changes which, in our opinion, are about to happen and there is an opportunity to solve these questions and to move further.

We do not stop and we will look for other ways of solution and I think that our today's conference is



just a possibility to exchange the experience. And we will study other mechanisms which are other ways, and I think that it will be useful for clarification of this question in the nearest future.

As for the legislative solution of the question that the Law "On reintegration of Donbass" has a bunch of different questions, which should be solved, I think that we will be able to handle these questions by joint effort. There are many legal issues, which need to be removed. Besides, I absolutely agree with other points of view that nevertheless passed the third year, and many certain questions are already acquired, and, perhaps, in some questions we do not go further. We need resolve these issues. **I think that in the bill "On Reintegration of Donbas" we have to decide the issues which emerged for these three years, other problems, and besides I will still remind of my basic principle – to find opportunities to pay pensions to people, as well as other social payments in general.**

Thank you! If there are some questions, I am ready to work, to cooperate.

Olga Lishyk,

Vice-Chairman of the Luhansk Regional Military and Civil Administration

Thank you very much for giving me the floor!

Firstly, I want to thank the organisers for such a meeting. It was really useful to hear from our partners from the countries which suffered as a result of the Russian aggression. Their experience though is sad experience, but those mechanisms which were used for the solution of problems of settlers and payment of pensions are very important personally for me. I like the experience of Georgia and I was pleased that the state set as the purpose that all people, all citizens should receive pension without any conditions; it means that the mechanisms are created; they can come and receive their pension on the border of the line of demarcation or in another way.

What did occur in Luhansk oblast? For today, **we have registered about three hundred thousand people. However, frankly speaking, in practice they are not in the territory of the oblast. And it should be defined and shown. People do not live in the territory of the oblast.** Among 300 000 residents 212 000 are pensioners.

We have huge border with the Russian Federation. In total, we have two checkpoints. The first is the Stanytsia Luhanska's pedestrian crossing point. Another one is a frontier with the Russian Federation. People cross the border from both sides. And if they cross the checkpoint of the admission in Stanytsia Luhanska, border service fixes that fact. If they cross through Milove – border service does not fix it, and we have a gap in 60 days. **I am very consoled that the Ministry of Social Policy develops the mechanism of simplification of verifications, but for today, a person has to go through border control once for 60 days. In addition, there is such a myth of “72 hours” created by carriers and those who profit in public** (a person has to live there for three days, people pay housing, food, some services and then in three days come back). **We also have a myth that people cross the border each day.**

Secondly. **There is no unified verification mechanism. There are home inspections which take place every six months; identifications of the Oschadbank which take place every three-six months; verification of the Ministry of Finance, and then suddenly – even the Security Service of Ukraine termination lists. It happens constantly that people do not know why**

these pensions are suspended. What I want to tell: while we think, we draft laws, we change resolutions, there are people who go to the Stanitsa Luhanska, – well, it is terrible to watch at the people who are above 80 years old, they pass by foot, walk to the pension fund, to department of social protection, there are huge lines in the Oschadbank, and the local population is anxious the fact that they cannot receive pensions because there're only three ATMs in working condition; people are built in lines of 15 people to get and carry out identification in the Oschadbank. These are **inhuman conditions, and this need to be solved quickly, because people will not live up to that time when they receive pension.**

Let us ask a question: three years has passed, **what about individuals who did not live up to a retirement age, they did not complete by the Ukrainian retirement age, so how the pension will be calculated for them?** It means that they have no pensions at all. We are talking about huge amount of people. This mechanism need to be developed too. Because **certificates about their employment in so-called “Luhansk People's Republic” are not fixed anywhere, and it will result in a lot of work for human rights activists.**

In addition, **we have a secondary displacement:** during almost a year people who moved to other area (and especially in Kharkiv oblast) are coming back and registering in Luhansk oblast, and it's a very big stream. For today, we made the independent analytics on management of social protection of the population and checked what we have saved this year. For this year, I will tell you, 366 meetings of the commission have passed, 73 500 inspection statements of material living conditions of settlers has been taken out, and we eliminated 2 percent during this time. That is the work of department of social protection of the population, the pension fund, people who come constantly for inspection – it is very huge but still it does not give anything. Why? Because **people who live in Luhansk and pass through the checkpoint are registered to the fake address in Stanytsia Luhanska due to the payments to the local population, and they come back home. When the social protection worker comes to them, the local population makes calls and warns a person who has paid: there is a message for you according to the Resolution 365; then he comes to the Department of**

Social Protection to be checked. And it goes by circle. Therefore, it is necessary to recognize and accept the mechanism of the fact that pensions should be paid according to the Law on nation-wide pension insurance where **there are definitely four institutions which participate in the general pension insurance: Pension Fund, employer, pensioner, bank. There is no Ministry of Social Policy among the above mentioned institutions.** Pensioners are restricted in their rights because of the Oschadbank's decision. Only the corresponding sum can be withdrawn and recently the immigrant who lives in Ukraine, who is a full member of society, who resolved the housing issues, he or she loses the pension.

In addition, **there is the question on the calculation of pensions to people who have not reached retirement age, but they have not completed the pension experience required under the Ukrainian legislation.** These people, in principle, have no right to a pension. This is a very large number of people; this mechanism also needs to be developed.

We have sent huge number of the suggestions from Regional State Administrations, including initiatives to change resolutions and legislation. We take an active part of all processes. **If we hesitate, we will lose our citizens.** We also lose them because Russia conducts an informational war, as the representative from Georgia have mentioned; it occupies both territories and minds. Today our children study heroes of Novorossija, learn the Soviet period. I wish you could see the books our kids are studying at school. I hope, you saw the textbook for the 11th grade on stories of "Lugansk People's Republic": from ancient times to the present time – that is ancient times are 2014 by present time. Minds of our children are as in Hitler's times, bringing up enemies in us; we are already enemies, we are the territory occupied by Kiev – and these things are studied at school. Three years are already an experience. It is necessary to take fast steps in the course of reintegration. In addition, we have to study enemy's steps they already have done. It means that we have to spread the information on that territory to influence people minds. Thanks God, we

have installed a tower, and there are already Ukrainian TV channels and radio our people are able to hear in Lugansk. **We should publish textbooks, work with settlers, provide housing if we want our people to live decently.**

I personally was working with a number of the humanitarian organisations: VostokSOS, Donbas-SOS, Krym SOS, – and I am very grateful to everyone who asserts the rights of people. I do not want to talk in general because we talk about specific feature of each person where there is a problem.

Summing up the speech, I want to tell that we **will make everything required from Regional State Administration just to support our Ukrainians:** Luhansk residents, representatives of Donetsk who have moved. There are settlers from Crimea, –



Photo credit: NRC

housing is under construction, we expect changes to the legislation under the housing code to build even more; that the grants, provided the European Union to us, will work. **We are a reliable partner, we are ready to do everything that depends on the regional authorities as the implementer of the corresponding duties, but it is necessary to accelerate changes to the legislation just immediately.** It is impossible to wait anymore!

I am very grateful. I ask for excuse, perhaps, for such an emotional speech. Thank you!

Zhanna Lukyanenko,

Representative of the Commissioner for observance of the rights of internally displaced people

I greet everyone!

I want to repeat once again Valeria's thesis: **It is very important to solve the issue of increasing the period of limitation on pension costs, for which a person was entitled for over the past period at the legislative level, because three years are running out, and it is the only term provided by the law.** The current legislation provides the framework for pension payments, and pensions to residents of uncontrolled territories fit within it very organically. Is this the territory of Ukraine? – yes, it is the territory of Ukraine; are they citizens of Ukraine? – yes, they are citizens of Ukraine; have they acquired the right to a pension? - yes, they have, either for health reasons, a certain age or because of preferential seniority. That is all. This highlights what the law says. And **the mechanism of the payments should be specified by the Pension Fund. That is, the Pension Fund, taking into account the new conditions, easy to modify, to unify its mechanism.**

Very often, we cannot pay because we do not have paper files. **As the mention of a paper form of the pension case appears only in subordinate normative act, the lack or loss of access to the paper file cannot be the basis for non-payment of pensions.** It is an indicator for the Pension Fund: the time passed, conditions have changed, and you need to do something moreover, the Pension Fund has already shown recognition of the mechanism of paper cases as outdated: for a long time, the Pension Fund offices are making an electronic file, scanning

all documents, so, the pension case hardly would be ever lost. Moreover, when a person has submitted an application and add all necessary documents, the risk of storage of the documents passed to the body authorities. Therefore, **we need to work out the mechanism to solve these problems at the by-law level.**

I think, there is also another aspect. This educational moment concerning, for example, young people when you ask them to pay taxes for their retirement because it is something which is coming. However, for them it is a good push in the culture of payment of obligatory payments to the state. So they say: we would better register as entrepreneurs, I'd rather settle for grey wages than pay the normal contribution rate.

So, let us recall just human physiology: a man cannot live without money; if the pensioners do not get their money then how do they satisfy their basic needs? Without money, people cannot live. And I do not really believe that with the pension of 1 300 hryvnia you have savings that you can live for several years without new injections. Therefore, let us get together and work out the effective direct mechanism, which would ensure that the people who live in the uncontrolled territories receiving their pensions.

Many thanks! Sorry for the emotions, but three years is a very long period, in order to solve the problem, which is, in principle, not so deeply legally complex.

Thank you!

Olesya Tsybulko,

Advisor to the Minister for Temporarily Occupied Territories and Internally Displaced Persons

I want to say that the draft law submitted to the Verkhovna Rada was developed by our sub-working group jointly with the Council of Europe and with all international and national non-profit public organisations that have become familiar with this and we are very grateful to everyone who took part in the this.

Yes, there may be shortcomings there, which, I hope, will be finalized for the second reading, but, as was said, **it is, in fact, all that is required in legislation, in order to pay pensions.** And tomorrow we will try to work out subordinate legislation, so that we do not wait until the law is passed.

But **regarding the intention of the Ministry of Social Policy to pay a pension to a citizen of the non-government controlled territory, I believe that they are somewhat cunning, because in the pension reform they are actually preparing, they included the rule**

that pensions to people from the non-government-controlled territory will be paid only after restoration of control over that territory. And this means that pensions will not be paid in the uncontrolled territory. The **Social Policy Committee has taken into account the amendment of the member of the Parliament Natalia Veselova and excluded this provision from the pension reform,** so let's hope that it will not appear again when the Verkhovna Rada votes.

I want to say that I join all the speakers, and I want to say that, thanks to the organisation "The Right to Protect", there is the first win case in the court of first instance, when the state must pay pension to a person who has never passed the line of contact, who remains in non-government controlled territory, who has never travelled to the government-controlled territory of Ukraine.

Thank you all!

Concluding remarks

Pablo Mateu,

UNHCR Representative in Ukraine

Thank you very much!

I just would like to thank the Norwegian Refugee Council, and donor governments and ECHO who provided support to this very important event. This is an extremely important issue for Ukraine. I think it involves the reintegration of the non-government controlled territories, it involves the human rights of quite a lot of people who happened to live on the other side of the contact line, and it also involves international law.

So, thank you very much for the Norwegian Refugee Council. I think it was extremely interesting to hear the experiences of other countries. I hope the Government of Ukraine will pay attention to those experiences because they are quite positive, they

show that despite the challenges I think the states have to assume their responsibilities. So, I really encourage the government to pay a close attention and to learn from the experience of other countries that also went through a similar experience. So, once again thank you very much to all of you. I think together we would be able to make sure that people get their rights. Crossing frequently the contact line I can tell you that a lot of people are suffering, especially people who are in their 80s, who are in their 70s, who have worked their entire life and who failed to understand how the Ukrainian State is failing them. So, thanks again. Let's continue with the work, it's not yet finished. We need to find practical solutions according to the law.

Thank you!



Photo credit: NRC

Christopher Mehley,
NRC Country Director in Ukraine

I just would like to say some final words from myself, on the part of the Norwegian Refugee Council.

Certainly, I would like to thank all the participants today, the moderators. I think Pablo put it very well: it's extremely interesting to hear from international guests of experience, of what works, what doesn't work, what are challenges, what are not challenges. And I think it can contribute to the discussion and the debate that is underway here in Ukraine on the subject.

I would certainly also like to thank our donor, the main donor for these particular events, Pablo mentioned ECHO, the European Union has been very supportive of the NRC's legal aid activities, including this type of activity, a working with civil society here, working with other international organisations, as well as with Ukrainian government structures, and of course the Parliament.

I think that something that was said several times today is extremely important. We're discussing today not something that's abstract, it's about hundreds of thousands of people, about their rights, and as was said about the right to life in some cases. And, as Pablo was saying, NRC staff, just like the UNHCR

staff, every single day are confronted by this issue. Our lawyers are dealing with cases of displaced, of civilians from non-governmental controlled areas that are raising these issues of pensions.

So, I am very pleased that NRC has been a part of this process, and what I can commit is we will continue to work with all of you and to advocate for delinking the issue of pensions from IDP status and of course we as well welcome the legislative initiatives that are in the Rada now and then hopefully can move forward.

But I would imagine that the road still has some ways to go, and we will travel that together. So, I hope this or maybe not be the last conference and as the comment was today that maybe we don't just need like-minded people here at these conferences but we also need to be challenged by some who have different opinions and we need to work to convince. Thus, once again I'd like to thank all of you very much for coming today, and I look forward to working with you on this, I think the process will still continue. So, thank you very much and have a very good afternoon and a remainder of the week.

Thank you!



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Right to pension in the context of armed conflict: international experience and solutions for Ukraine.

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