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Features of crossing the line of demarcation by internally displaced persons in quarantine conditions

Introduction

After experiencing the effects of the seven-year conflict in eastern Ukraine, people faced the consequences of COVID-19, which exacerbated the socio-economic crisis that affected people, especially residents of uncontrolled territory of Ukraine.

With the closure of the EECF, on March 22, 2020, people were cut off from access to their own property, visiting or caring for family members, receiving pensions and social benefits. The introduction of quarantine restrictions in 2020 continued to complicate the crossing.

After the closure of the contact line on March 2020, it was reopened on November 2020 on the GCA side. However, restrictions on the NGCA side contributed to a sharp reduction in crossings compared with pre-pandemic levels. Despite the operation of two working EECFs Novotroitske in Donetsk region and Stanytsia Luhanska in Luhanska region, the number of crossings in the first half of 2021 was 274,000 crossings which is just 4 per cent of that of the first half of 2019 and 10 per cent of that of the first half of 2020. Meanwhile, the number of Ukrainian citizens crossing through IBCPs continues to grow¹.

The purpose of this thesis is monitoring at both IBCPs, which became necessary when Ukrainian citizens living in the Non Government Controlled Areas (NGCA) started using the IBCPs to visit the Government Controlled Area (GCA) after facing severe restrictions in using the Exit Entry Crossing Points (EECPs) along the contact line between the GCA and NGCA.

¹ According to official statistics from the State Border Guard Service of Ukraine. URL: <https://dpsu.gov.ua/en/>.

Entry-exit checkpoints in the area of the anti-terrorist operation in Eastern Ukraine

An entry-exist checkpoint in the area of the Anti-Terrorist Operation in Eastern Ukraine is a checkpoint located in the Anti-Terrorist Operation zone and serves to move people, vehicles and cargo across the demarcation line. While the “contact line” remains largely closed, residents of areas beyond Government control are forced to enter Government-controlled areas through Russia.

The crossing through the “contact line” – a stretch of land that separates conflict-affected people residing in Government (GCA) and non-Government controlled areas (NGCA) of Eastern Ukraine – has been severely limited for over 18 months now. Temporary restrictions put in place by the Government of Ukraine and entities in control of NGCAs in March 2020 to contain the spread of COVID-19 have prevented hundreds of thousands people from travelling across the “contact line” to access essentials services and maintain social connections with the other side. Due to these restrictions, thousands of people have been forced to take longer, more expensive and legally challenging routes through the territory of the Russian Federation (Russia) to reach GCA.

While the movement restrictions have eased somewhat over time, the crossing of the “contact line” remains particularly challenging in Donetsk region. People seeking to cross must obtain permission from the entities in control of Donetsk region, but this permission is only granted in exceptional humanitarian circumstances and has led to a drastic drop in crossings within the region.

In August 2021, the level of crossings through the only officially operational entry/exit crossing point (EECP) in the region, “Novotroitske”, represented 6 per cent (5,812 individual crossings) of the total number of crossings of the “contact line” during the month (90,751, with the majority of crossings in Luhanska region). In August 2019, before the COVID-19 pandemic, the level of crossings through four operational EECPs in Donetska region represented 75 per cent of the total number of crossings. Overall, the number of crossings of the “contact line” in August 2021 was only 7 per cent of the August 2019 figure, when 1.3 million civilian crossings had been recorded².

Since the start of the pandemic, a gradual increase in crossings to/from GCA by NGCA residents was observed through the two crossing points located at the Russian-Ukrainian border: “Milove” in Luhansk region and “Hoptivka” in Kharkivsk region. Between June and August 2021, an average of 206,181 individual crossings per month were observed through the crossing points at the Russian-

² According to the official statistics from the Right to Protection in partnership with HIAS. URL: <https://r2p.org.ua/wp-content/uploads/2021/11/eecp-ibcp-ma-30-11.pdf>.

Ukrainian border, with NGCA residents reportedly responsible for at least 30 to 40 per cent of crossings at “Milove” crossing point, compared with 89,870 crossings across the “contact line”.

While there is no clear picture on the number of NGCA residents crossing to/from GCA through “Hoptivka” crossing point, it is considered to be at a similar level. Since the movement restrictions across the “contact line” are less severe within Luhansk region, the majority of crossings through the two border crossing points have reportedly been made by the residents of Donetsk region, NGCA.

NGCA residents, primarily those residing in Donetsk region, NGCA, have to travel almost 500 km to cross through “Milove”, the distance between Warsaw and Vilnius and two times the distance between Vienna and Budapest. They have to travel over 900 km to cross through “Hoptivka”, the distance between Rome and Bern and five times the distance between Brussels and Amsterdam. In comparison, the currently only operational EECP “Novotroitske” in Donetsk region is located just some 40 km away from Donetsk, Donetsk region, NGCA.

The cost of travel through crossing points on the Russian-Ukrainian border is also significantly higher compared with crossing the “contact line”, which ranged from UAH50 (US\$2) to UAH600 (\$23) before the introduction of COVID-19 restrictions.

On average, NGCA residents spend UAH2,500-3,000 (\$94 to \$113) in transport costs and an additional UAH650-950 (\$25-38) for a COVID-19 test to cancel mandatory self-quarantine for unvaccinated people or those who have been vaccinated with vaccines not approved by WHO for emergency use, which includes Sputnik V.

The amount that the people have to spend for taking this detour is particularly challenging for NGCA pensioners, who have been receiving the so-called monthly social payments in NGCA amounting to some RUB8,900-10,000 (\$117-135) for over a year and a half. Nevertheless, these people still choose to spend their savings to travel to GCA to withdraw their hard-earned pensions they rely on, especially during the upcoming winter months.

The situation was particularly dire during the application of administrative fines by Ukraine for entering GCA after crossing the uncontrolled part of the Russian-Ukrainian border. NGCA residents taking this detour had to pay between UAH1,700-5,100 (\$64-192) for the first violation of crossing procedures and up to UAH8,500 (\$320) for any repeated violation within a year.

The situation was reported to be more severe at the “Milove” crossing point, where people had to spend up to 24 hours in a queue to be able to cross to GCA. Following the adoption of law No. 5478 on 29 July 2021, Ukrainians could be released from an obligation to pay a fine for the violation of crossing rules while the “contact line” remains largely closed if the crossing need corresponds with one of the humanitarian reasons listed in this law.

This development has led to a significant decrease in the processing time, with no queues observed in the GCA direction since August, and a drop in a number of fines issued by the Ukrainian side, reportedly not exceeding a few per day. Disturbingly, lines of up to 28 hours have now been reportedly observed in the opposite direction (towards Russia).

Meanwhile, unlike “Hoptivka”, the “Milove” crossing point has not been designed to process large numbers of people and does not have adequate facilities to accommodate people waiting to cross. Originally intended as a regular border crossing point to serve local residents, today, “Milove” is used by trucks, civilian vehicles and pedestrians, yet, there is only one lane in each direction.

Moreover, there is just one small room available where people can take shelter from bad weather. It has also been reported that the number of medical cases at the “Milove” usually ranges from three to five daily, with no medical assistance available directly at the crossing point.

Considering the increase in the number of people crossing “Milove” due to the limited operations of the “contact line”, the UN Refugee Agency and the Norwegian Refugee Council plan to start the reconstruction of the crossing point on 1 October to help increase its processing capacity as well as build additional facilities, including those that are currently unavailable (i.e., first aid point).

The reconstruction is expected to take up to two months, while the crossing point will remain operational.

Worryingly, there have been reports that other crossing points at the Ukrainian-Russian border (i.e., “Yunakivka” crossing point in Sumsk region) are encountering an increase in the number of NGCA residents crossing to GCA. Without the gradual easing of restrictions on crossing the “contact line”, which is currently unlikely due to the uptick in the COVID-19 incidence rate on both sides, it is anticipated that the number of NGCA residents entering GCA through crossing points at the Russian-Ukrainian border will continue increasing.

At the same time, the most vulnerable categories of people in NGCA, who do not have enough savings to take this detour, will have to continue relying on meagre payments that they receive, which are hardly enough to cover the very basics.

While taking this detour represents a temporary solution for some, without a reopening of the “contact line”, conflict-affected people’s vulnerabilities are expected to further deteriorate, and the already fragile ties between the once united community will likely continue to weaken.

Legal issues

In response to the issue with fines for illegal crossing (Administrative code, article 204-2)³, an amendment to the COVID-19 quarantine legislation was adopted on 29 June 2021 and signed by the President of Ukraine on 22 July, to waive the imposition of administrative fines on citizens of Ukraine for violating the procedure of entering and leaving the NGCA through IBCPs.

The waiver is based on humanitarian grounds within the period of quarantine, or for the period of blocking of the EECsPs.

Such humanitarian grounds include among others:

- Return of Ukrainian citizens and their family members to their place of residence;
- Family reunion;
- Serious illness, death of close relatives;
- The need of medicines and medical devices or to undergo treatment in case of severe and /or chronic diseases;
- Departure from the NGCA of a person who has documents confirming the right to permanent or temporary residence in another country;
- Crossing the IBCPs by a child under the age of 16, accompanied by one of the parents (adoptive parents) or other legal representatives for the purpose of obtaining documents that identify the child and certify him/her citizenship of Ukraine;
- The need to accept the inheritance.

The full list can be found in CMU decree № 815 dated 17-07-2019, article 222.⁴

This decree played an important role in decreasing the number of fines, as confirmed by SBGS statistics.

SBGS personnel continued to issue verbal warning but without imposing a fine for people crossing on humanitarian grounds and for certain categories of people, such as pensioners, disabled persons or multi-child families.

According to official SBGS statistics by August, there has been an increase in the flow of people at both IBCPs since the closure of the contact line.

³ Kodeks Ukrainy pro administratyvni pravoporushennia vid 17 hrudnia 1984 roku [Code of Ukraine on Administrative Offenses dated December 17, 1984] [in Ukrainian] URL: <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

⁴ Pro zatverdzhennia Poriadku vizdu osib, peremishchennia tovariv na tymchasovo okupovani terytorii u Donetskii ta Luhanskii oblastiakh i vyizdu osib, peremishchennia tovariv z takykh terytorii: Postanova Kabinetu Ministriv Ukrainy vid 17 lypnia 2019 roku [Resolution of the Cabinet of Ministers of Ukraine «On approval of the Procedure for entry of persons, movement of goods to the temporarily occupied territories in Donetsk and Luhansk oblasts and departure of persons, movement of goods from such territories» dated July 17, 2019] [in Ukrainian] URL: <https://zakon.rada.gov.ua/laws/show/815-2019-%D0%BF#Text>.

UNCR plans for International border crossing point improvement

The main hall of 108 m², for a minimum of 80 persons with four functional zones. The main hall will be equipped with a heating system and air-conditioning.

Open waiting points (3 modules 24 m² each); one at the entry to IBCP and two in front of the main hall (entrance to the main hall from the Russian Federation side). Sanitation point consisting of toilets, 2000 liters water tank and a septic pit. The sanitation point will be equipped with heating system and water supply.

Fence for the arrangement of pedestrian movement to both sides⁵.

Conclusions

In conclusion, we would like to note that until the full deoccupation of Donetsk and Luhansk regions don't take place, the full reintegration of internally displaced persons will can't take place, respectively. Also I want to emphasize that big role played the adoption of the Donbas De-occupation Law according which Ukraine makes a legal position regarding the protection of rights and freedoms of its citizens living in certain areas of Donetsk and Luhansk regions.

The law preserves the property rights of the state, government bodies, natural and legal persons in that territory which have been obtained according to Ukrainian legislation (Art 2). Ukraine will also monitor human rights situation in that territory and document its violations (Art 6). Meanwhile Ukraine lays the responsibility on Russia for moral and material damages inflicted in certain areas of Donetsk and Luhansk regions (Art 2) and obliges it as an occupier state to "ensure the protection of civilian population's rights and provide conditions for their vital activities" (Art 7)⁶.

In practice, it will enable Ukraine to protect its interests in national courts when citizens living in that territory file complaints against the state. If such matters are taken to the European Court for Human Rights, Ukraine will maintain its position with reference to the "effective control" concept.

By the way we also need to accent that this situation have not only a legal nature but more political.

⁵ Going round the contact line. URL: <https://reliefweb.int/sites/reliefweb.int/files/resources/Going%20Around%20the%20Contact%20Line%20August%20-%20September%202021%20Snapshot%20%5BEN%5D.pdf>.

⁶ Pro osoblyvosti derzhavnoi polityky iz zabezpechennia derzhavnoho suverenitetu Ukrainy na tymchasovo okupovanykh terytoriiakh u Donetskii ta Luhanskii oblastiakh: Zakon Ukrainy vid 18 sichnia 2018 roku. [Law of Ukraine «On the peculiarities of the state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Luhansk regions» dated January 18, 2018] [in Ukrainian] URL: <https://zakon.rada.gov.ua/laws/show/2268-19#Text>.

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(summary)

This article provides the results of observation at all seven Entry-Exit Checkpoints (EECPs) and the survey conducted at two of them (Novotroitske EECP in Donetsk region and Stanytsia Luhanska EECP in Luhansk region) in the first half of 2021. Additionally, the thesis also contains some preliminary observations at International-Border Checkpoints (IBCPs) from April to June of 2021. The survey is a part of the monitoring of violations of rights of the conflict-affected population including internally displaced persons (IDPs).

Bibliography:

Going round the contact line. URL: <https://reliefweb.int/sites/reliefweb.int/files/resources/Going%20Around%20the%20Contact%20Line%20August%20-%20September%202021%20Snapshot%20%5BEN%5D.pdf>.

Right to Protection in partnership with HIAS. URL: <https://r2p.org.ua/wp-content/uploads/2021/11/eecp-ibcp-ma-30-11.pdf>

State Border Guard Service of Ukraine statistics. URL: <https://dpsu.gov.ua/en/>.

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Kodeks Ukrainy pro administratyvni pravoporushennia vid 17 hrudnia 1984 roku [Code of Ukraine on Administrative Offenses dated December 17, 1984] [in Ukrainian] URL: <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

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