



Briefing note on the status of civilians who acquired disabilities due to the armed conflict in eastern Ukraine

Background

According to the United Nations High Commissioner for Human Rights, seven to nine thousand civilians have been injured as a result of the armed conflict lasting more than four years in eastern Ukraine¹. At the same time, it is impossible to determine the exact number of people affected by the conflict, due to the lack of official statistics.

Nevertheless, there have been local attempts at recording some figures. The Department of Social Protection of the Luhansk Oblast State Administration has established a register for civilian casualties and deaths during the period of the Anti-Terrorist Operation (ATO) in the government controlled areas (GCA). The register contains information on 552 wounded civilians, including 27 children. The Donetsk Oblast State Administration, however, does not maintain the same register. But the local

Department of Health counted 102 injured people in 2016 and 94 in 2017.²

This incomplete collection and analysis of data on civilian casualties is problematic as civilians continue to experience significant health problems due to the ongoing armed conflict, with 13 people reportedly injured³ in October 2018.

Legislative regulations

The Anti-Terrorist Operation (ATO) consists of measures to ensure national security and to defend repression and deterrence of Russian armed aggression in Donetsk and Luhansk oblasts, as well as along the contact line. ATO was implemented on 1 December 2014.

In the ATO-period from 2014 to 2017, civilians whose health was negatively affected by the armed conflict in eastern

¹ [Office of the United Nations High Commissioner for Human Rights Report on the human rights situation in Ukraine \(16 February to 15 May 2018\)](#).

² Report "Loss of civilian population due to the armed conflict in eastern Ukraine (2014 – 2018)".

³ [Protection Cluster Factsheet – October 2018](#).

Ukraine did not receive any special status, additional benefits or social guarantees. To resolve this issue, a drafted law on the status and the social protection of civilians affected by the ongoing ATO was submitted to the Ukrainian Parliament in June 2016, but the parliament has not considered it so far.

In early 2018, a law on the status of war veterans was amended to guarantee social protection⁵ for people with disabilities caused by explosives, ammunition and military weapons on the ATO-territory.

On 28 February 2018, amendments were introduced to regulate the procedure, conditions and criteria to determine disabilities⁶ and other health damages caused by ammunition during ATO.

The Cabinet of Ministers of Ukraine (CMU) adopted a resolution on 25 April 2018⁷, which defines the following procedure for determining a causal link between disabilities, injuries or other health damage with ammunition during ATO:

- applying for a certificate that determines the disability group and the cause of the disability at the Disability Determination Agency;
- submitting necessary documents on injuries or other health damages caused by explosives, ammunition and military equipment on the ATO-territory to the Interdepartmental Commission;
- once the Interdepartmental Commission has decided a causal relationship between the injury and the armed conflict: applying at the Disability Determination Agency, which previously issued the certificate on disability

According to Resolution No. 306, the Interdepartmental Commission has to be established by the State Service for War

Veterans and Participants of ATO-Affairs. The regulation of the Interdepartmental Commission and its composition has to be approved by the Ministry of Social Policy of Ukraine.

However, six months after the enforcement of this resolution, necessary steps in order to establish an Interdepartmental Commission were not taken. This caused concern among the affected people and the Disability Determination Agency as well as other public organisations.

Finally, on 9 November 2018, the resolution on the establishment of an Interdepartmental Commission was enforced. Its main functions, tasks and responsibilities include application forms for the affected individual and their approval.

Problematic issues

1. Unresolved issue of ATO termination and the lack of a procedure for establishing a causal link for people affected during the Joint Forces Operation

As noted above, the Ukrainian law on the status of war veterans and guarantees for their social protection contains a provision granting a special status to individuals affected by the Anti-Terrorist Operation (ATO). The law further entails the implementation of measures to provide national security and to defend repression and deterrence of Russian armed aggression in Donetsk and Luhansk oblasts, as well as along the contact line.

However, on 30 April 2018, an additional decree on the decision of the National Security and Defence Council of Ukraine on the large-scale ATO in Donetsk and Luhansk oblasts terminated the operation. Instead, a

⁵ [Law of Ukraine "On status of war veterans, guarantees of their social protection".](#)

⁶ [Regulation on the procedure, conditions and criteria for determining disability.](#)

⁷ [CMU Resolution "Some Issues of establishing disability relations with injuries or other health damage".](#)

Joint Forces Operation was launched to ensure national security in Donetsk and Luhansk oblasts, based on an order of the Supreme Commander-in-Chief of the Armed Forces of Ukraine. Since most of these regulatory instruments have not been made public, there is no evidence as to whether ATO has been terminated or not.

However, some governmental agencies (for example, the Ministry of Finance of Ukraine) consider that ATO was terminated on 30 April 2018. If the Interdepartmental Commission shares this view, the individuals injured by ammunition after 30 April 2018 will not be able to claim that their disability or other health damage was caused by ammunition during ATO, and consequently will not be able to obtain the status of a person with a disability acquired as a result of war.

2. Lack of a clear procedure for obtaining the status of a person with disability as a result of the armed conflict

Individuals with disabilities acquired as a result of war are entitled to certain social benefits provided by the Ukrainian law on the status of war veterans and guarantees of their social protection. This includes, in particular, the right to receive free

medication, free mental health services, and a 100 percent discount on utility bills.

In order to receive these benefits, it is necessary to register with the Department of Labour and Social Protection. Affected civilians should initially obtain the status of "a person belonging to people with disabilities as a result of war".

Certificates for a person with a disability as a result of war are issued by the Disability Determination Agency, based on regulations about the group and the cause of the disability. At the same time, this regulatory instrument includes neither deadlines for issuing a certificate nor a procedure for appealing decisions made by the Department of Labour and Social Protection.

In other words, it is not certain whether the regulations in place will be sufficient for the local social protection bodies to establish an appropriate status for individuals with disabilities acquired as a result of the armed conflict.⁹

⁹ For example, in order to regulate the procedure for granting the status of person with disabilities acquired as a result of the war, to individuals who acquired disabilities as a result of an injury, contusion or disease, received during ATO,

ensuring its implementation (concerns military personnel and other people involved in ATO), a special regulatory act was adopted – CMU Resolution, 8 September 2015, No. 685.

Recommendations of the Norwegian Refugee Council (NRC) to the Government and other competent authorities of Ukraine:

- Create a unified register of the conflict-affected people in eastern Ukraine and determine a body responsible for its maintenance and administration;
- To the Interdepartmental Commission – consider the conflict-affected individuals' applications including those submitted before the approval of the Interdepartmental Commission without further delay;
- Promulgate regulatory instruments related to the preservation or termination of the Anti-Terrorist Operation (ATO) or announce a clear official position on this issue;
- In case of an ATO termination, introduce the amendments into bylaws that would allow people who were injured by ammunition during the period of the Joint Forces Operation to obtain the status of a person with disabilities acquired as a result of the armed conflict;
- Develop a unified position on the procedure for granting the status of a person with disabilities acquired as a result of the armed conflict to affected individuals and provide appropriate explanations to the local labour and social protection bodies.

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