

## UPDATE ON MILITARY OCCUPATION OF CIVILIAN PROPERTY

© E. Maloletka, a house in the village of Luhanske, Donetsk



### CURRENT SITUATION

Housing, land and property issues are key protection concerns for conflict-affected people in Ukraine.<sup>1</sup> For people living close to the contact line separating government-controlled areas (GCA) and non-government controlled areas (NGCA) of Ukraine, expropriation and occupation of residential houses, commercial property and private agricultural land by military actors has been reported.

Military occupation of housing, including looting and damage, has been reported both in GCA and NGCA.

Protection concerns related to military occupation of property include increased risks to life, as the positioning of military bases in civilian areas increases the amount of shelling<sup>2</sup> and fighting in the area and, consequently, leads to greater number of civilian casualties. People may refuse to flee their homes, even when their lives are at risk due to shelling, because of the fear that their property will be taken for military use if they leave.

In addition to losing access to their homes and property, households who have had their homes occupied by military forces must pay land tax and utility bills for the occupied home, in addition to rent and utility bills in their place of residence, placing households under a heavy financial burden and forcing people into bankruptcy.

Even when military expropriation has ended, property owners are often left without any confirmation that the property was used by the military and have no evidence to apply for compensation for damaged or destroyed property or accrued debts for utilities and unpaid taxes.

Soldiers may leave behind landmines and unexploded ordinances and the use of land plots for military purposes (e.g. mining, digging trenches etc.) means that it is often impossible to conduct farming activities.

### UN GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

Principle 21 of the [UN Guiding Principles on Internal Displacement](#) recognizes that:

*“No one shall be arbitrarily deprived of their property and possessions. The property and possessions of all internally displaced persons shall in all circumstances be protected, in particular, against the following acts: pillage; direct or indiscriminate attacks or other acts of violence; being used to shield military operations or objectives; being made the object of reprisal; and being destroyed or appropriated as a form of collective punishment. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use”.*

<sup>1</sup>National Monitoring System Report ‘On the Situation of IDPs’, April 2017. Available at: <http://www.iom.org.ua/>

<sup>2</sup> Shelter Cluster Field Notes [Avdiivka](#), [Luhanske](#), [Popasna](#)

Currently, there are no administrative procedure for the documentation and compensation for military use and damage of occupied civilian property. This leaves civilian households in a situation of uncertainty, not knowing what resource is available.

### KEY MESSAGES

- According to UN Guiding Principles on internal displacement, property of displaced people must be respected and protected. Therefore, armed units should be aware of their responsibilities under international law to respect the housing, land and property rights of civilians, especially individuals living along the contact line. The Shelter Cluster and its partners are conducting an ongoing verification which shows that secondary incidents of damage to housing are often caused by military occupation of vacant housing. Therefore proper military installations outside of civilian areas is the most preferred option.
- If nevertheless military occupation occurs, it is crucially important that authorities acknowledge the fact of the military occupation of civilian property. Authorities should develop a comprehensive mechanism for assessment, compensation or restitution for the cases of military use and damage of civilian property.
- It should be clear for conflict-affected population what is the procedure of getting compensation for military occupation of their properties. Civilians should not fear of repercussions for reporting the cases of military use of private property.

#### Current practice for documenting occupation of property by militaries

- Three entities can provide certificates confirming military occupation:
  - Local authorities
  - Military units in areas where property is occupied
  - Civil-military coordination units
- People can receive certificates confirming occupation of property through two procedures:
  - By submitting a citizen's appeal, which authorities are required to apply by the law within 30 days.
  - Alternatively, people can call the hotline of the Ministry of Defense. The Ministry of Defense representative is obliged to give internal order to the units on the ground to issue such certificates.
- Approach applied to individuals and legal entities is different:
  - Ministry of Defense can conclude agreements with legal entities or private entrepreneurs but cannot conclude similar agreements with individuals.

## RECOMMENDATIONS

***Advocate for acknowledgment and documentation of military occupation by the government.***

*Ensure that armed units are aware of their responsibilities under international law to respect the HLP rights of civilians. Advocate for the acknowledgement by the authorities of the military occupation of civilian property. Ensure that authorities document cases of military use of civilian property.*

***Document cases of usage of private property by the military.***

*Whenever applicable, humanitarian actors may document cases of military use of civilian property internally by themselves.*

***Respect privacy and consider safety of the civilians whose property is used by the military.***

*In case of conducting documentation of the military use of civilian property, make sure that confidentiality of the affected people is respected and that you do not disclose details in a way that might harm the persons of concern. Always respect the principle of accountability to conflict-affected population.*

***Advocate for the development of compensation mechanism for usage and damage of civilian property.***

*Advocate for the development of comprehensive mechanism for assessment, compensation or restitution for the cases of military use and damage of civilian property. Monitor that the government is properly implementing this mechanism in practice.*